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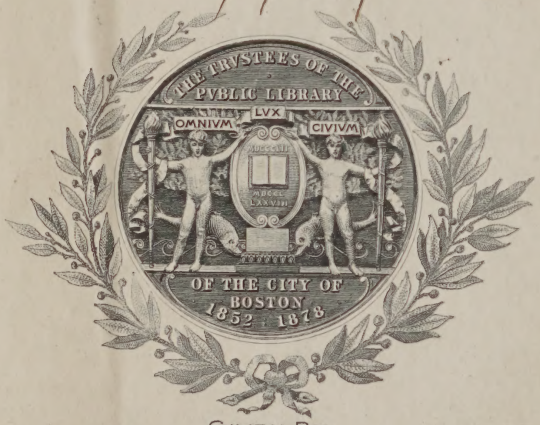

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DIGEST

OF

LAWS AND ORDINANCES

RELATING TO THE

PUBLIC HEALTH

AND

TENEMENT BUILDINGS.

BOSTON:
A. MUDGE & SON, CITY PRINTERS, 34 SCHOOL STREET.
1870.

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TENEMENT HOUSES.

[CHAP. 281.]

AN ACT for the regulation of Tenement and Lodging-Houses in the City of Boston.

Be it enacted, etc., as follows: —

When to take effect.

SECTION 1. From and after the first day of July, in the year eighteen hundred and sixty-eight, no house, building, or portion thereof, in the City of Boston, then used, occupied, leased or rented for a tenement or lodging-house, shall continue to be so used, occupied, leased or rented, unless the same, on the requisition of the board of health, shall conform in its construction and appurtenances to the provisions of this act.

Ventilation and windows.

SECT. 2. Every house, building, or portion thereof, in the City of Boston, designed to be used, occupied, leased or rented, or which is used, occupied, leased or rented for a tenement or lodging-house, shall have in every room which is occupied as a sleeping-room, and which does not communicate directly with the external air, a ventilating or transom window, having an opening or area of three square feet, over the door leading into and connected with the adjoining room, if such adjoining room communicates with the external air; and also a ventilatin or transom window, of the same

opening or area, communicating with the entry or hall of the house, or where this is, from the relative situations of the rooms, impracticable, such last mentioned ventilating or transom window shall communicate with an adjoining room that itself communicates with the entry or hall. Every such house or building shall have in the roof, at the top of the hall, an adequate and proper ventilator, of a form approved by the board of health or the superintendent.

Ventilation in hall.

Fire escape.

SECT. 3. *Every such house shall be provided with a proper fire-escape, or means of escape in case of fire, to be approved by the superintendent of the board of health.*

Roof in repair.

SECT. 4. The roof of every such house shall be kept in good repair, and so as not to leak, and all rain-water shall be so drained or conveyed therefrom as to prevent its dripping on the ground or causing dampness in the walls, yard or area. All stairs shall be provided with proper balusters or railings, and shall be kept in good repair.

Stairs.

Water closets or privies.

SECT. 5. Every such building shall be provided with good and sufficient water-closets or privies, of a construction approved by the board of health, and shall have proper doors, traps, soil-pans and other suitable works and arrangements so far as may be necessary to insure the efficient operation thereof. Such water-closets or privies shall not be less in number than one to every twenty occupants of said house; but water-closets and privies may be used in common by the occupants of any

One to every twenty occupants.

two or more houses: *provided*, the access is convenient and direct; and *provided*, the number of occupants in the houses for which they are provided shall not exceed the proportion above required for every privy or water-closet. Every such house situated upon a lot on a street in which there is a sewer, shall have the water-closets or privies furnished with a proper connection with the sewer, which connection shall be in all its parts adequate for the purpose, so as to permit entirely and freely to pass whatever enters the same. Such connection with the sewer shall be of a form approved by the board of health or superintendent, and all such water-closets and vaults shall be provided with the proper traps, and connected with the house-sewer by a proper tight pipe, and shall be provided with sufficient water and other proper means of flushing the same: and every owner, lessee and occupant shall take due measures to prevent improper substances from entering such water-closets or privies or their connections, and to secure the prompt removal of any improper substances that may enter them, so that no accumulation shall take place, and so as to prevent any exhalations therefrom, offensive, dangerous or prejudicial to life or health, and so as to prevent the same from being or becoming obstructed. No cesspool shall be allowed in or under or connected with any such house, except when it is unavoidable, and in such case it shall be constructed in

To be connected with sewer.

To have traps and water.

Owners and others to prevent obstructions, exhalations, etc.

Cesspools only when unavoidable.

such situation and in such manner as the board of health or superintendent may direct. It shall in all cases be water-tight, and arched or securely covered over, and no offensive smell or gases shall be allowed to escape therefrom, or from any privy or privy vault. In all cases where a sewer exists in the street upon which the house or building stands, the yard or area shall be so connected with the same that all water, from the roof or otherwise, and all liquid filth shall pass freely into it. Where no sewer exists in the street, the yard or area shall be so graded that all water, from the roof or otherwise, and all filth shall flow freely from it and all parts of it into the street gutter, by a passage beneath the sidewalk, which shall be covered by a permanent cover, but so arranged as to permit access to remove obstructions or impurities.

How constructed.

Yard or area to be connected with sewer.

Or with gutter.

Cellars not occupied as dwellings before July 1, 1870, require permits.

SECT. 6. From and after the first day of July, in the year eighteen hundred and sixty-eight, it shall not be lawful, without a permit from the board of health or superintendent, to let or occupy or suffer to be occupied separately as a dwelling, any vault, cellar, or underground room, built or rebuilt after said date, or which shall not have been so let or occupied before said date. And from and after the first day of July, in the year eighteen hundred and sixty-nine, it shall not be lawful, without such permit, to let or continue to be let, or to occupy or suffer to be occupied, separately as a dwell-

No cellar to be used as a dwelling, unless it conforms to certain requirements.

ing, any vault, cellar or underground room whatsoever, unless the same be in every part thereof at least seven feet in height, measured from the floor to the ceiling thereof, nor unless the same be for at least one foot of its height above the surface of the street or ground adjoining or nearest to the same, nor unless there be outside of and adjoining the said vault, cellar or room, and extending along the entire frontage thereof, and upwards from six inches below the level of the floor thereof up to the surface of the said street or ground, an open space of at least two feet and six inches wide in every part, nor unless the same be well and effectually drained by means of a drain, the uppermost part of which is one foot at least below the level of the floor of such vault, cellar or room, nor unless there is a clear space of not less than one foot below the level of the floor, except where the same is cemented, nor unless there be appurtenant to such vault, cellar or room the use of a water-closet or privy, kept and provided as in this act required, nor unless the same have an external window-opening of at least nine superficial feet clear of the sash-frame, in which window-opening there shall be fitted a frame filled in with glazed sashes, at least four and a half superficial feet of which shall be made so as to open for the purpose of ventilation: *provided, however*, that in case of an inner or back vault, cellar or room, let or occupied, along with a front vault, cellar or

Must be drained.

Must have water closet, windows, etc.

When back cellar may be occupied with front one.

room, as part of the same letting or occupation, it shall be a sufficient compliance with the provisions of this act, if the front room is provided with a window as herein before provided, and if the said back vault, cellar or room is connected with the front vault, cellar or room by a door, and also by proper ventilating or transom window, and where practicable, also connected by a proper ventilating or transom window, or by some hall or passage, or with the external air: *provided, always*, that in any area adjoining a vault, cellar or underground room, there may be steps necessary for access to such vault, cellar or room, if the same be so placed as not to be over, across or opposite to said external window, and so as to allow between every part of such steps and the external wall of such vaults, cellar or room, a clear space of six inches at least, and if the rise of said steps is open; and, *provided, further*, that over or across any such area there may be steps necessary for access to any building above the vault, cellar or room to which such area adjoins, if the same be so placed as not to be over, across or opposite to any such external window.

May have steps to area.

Also over area.

After July, 1868, every cellar requires permit.

SECT. 7. *From and after the first day of July, in the year eighteen hundred and sixty-eight, no vault, cellar or underground room in any tenement or lodging-house shall be occupied as a place of lodging or sleeping, except the same shall be approved in writing, and a*

permit given therefor by the board of health or superintendent.

Garbage boxes.

SECT. 8. *Every tenement or lodging-house shall have the proper and suitable conveniences or receptacle for receiving garbage and other refuse matters. No tenement or lodging-house, or any portion thereof, shall be used as a place of storage for any combustible article, or any article dangerous to life, or detrimental to health; nor shall any horse, cow, calf, swine, pig, sheep or goat be kept in said house.*

Combustibles or unhealthy articles not to be stored, or animals kept.

To be kept clean.

SECT. 9. *Every tenement or lodging-house, and every part thereof, shall be kept clean and free from any accumulation of dirt, filth, garbage or other matter in or on the same, or in the yard, court, passage, area or alley connected with or belonging to the same.*

To cleanse to satisfaction of Board of Health.

The owner or keeper of any lodging-house, and the owner or lessee of any tenement house or part thereof, shall thoroughly cleanse all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, privies, cesspools and drains thereof of the house or part of the house of which he is the owner or lessee, to the satisfaction of the board of health, so often as shall be required by or in accordance with any regulation of ordinance of said city, and shall well and sufficiently, to the satisfaction of said board,

To whitewash twice a year.

whitewash the walls and ceilings thereof twice at least in every year, in the months of April and October, unless the said board shall otherwise direct.

Owners' and agents' names posted.

Every tenement or lodging-house shall have legibly posted or painted on the wall or door in the entry, or some public accessible place, the name and address of the owner or

owners, and of the agent or agents, or any one having charge of the renting and collecting of the rents for the same; and service of any papers required by this act, or by any proceedings to enforce any of its provisions, or of the acts relating to the board of health, shall be sufficient if made upon the person or persons so designated as owner or owners, agent or agents.

Service of papers.

Officers of Board of Health to have access.

SECT. 10. *The keeper of any lodging-house and the owner, agent of the owner, lessee and occupant of any tenement-house, and every other person having the care or management thereof, shall at all times, when required by any officer of the board of health, or by any officer upon whom any duty or authority is conferred by this act, give him free access to such house and to every part thereof.* The owner or keeper of any lodging-house, and the owner, agent of the owner, and the lessee of any tenemenht ouse or part thereof shall, whenever any person in such house is sick of fever, or of any infectious, pestilential or contagious disease, and such sickness is known to such owner, keeper, agent or lessee, give immediate notice thereof, to the board of health, or to some officer of the same, and thereupon said board shall cause the same to be inspected, and may, if found necessary, cause the same to be immediately cleansed or disinfected at the expense of the owner, in such manner as they may deem necessary and effectual; and they may also cause the blankets, bedding and bed-clothes used by any such sick person, to be thoroughly cleansed, scoured and

Sick persons o be reported.

House may be disinfected; clothing, furniture, etc.

fumigated, and in extreme cases to be destroyed.

Buildings infected or out of repair may be ordered vacated.

SECT. 11. Whenever it shall be certified to the board of health by the superintendent that any building or part thereof is unfit for human habitation, by reason of its being so infected with disease as to be likely to cause sickness among the occupants, or by reason of its want of repair has become dangerous to life, said board may issue an order, and cause the same to be affixed conspicuously on the building or part thereof, and to be personally served upon the owner, agent or lessee, if the same can be found in this state, requiring all persons therein to vacate such building, for the reasons to be stated therein as aforesaid. Such building or part thereof shall, within ten days thereafter, be vacated, or within such shorter time, not less than twenty-four hours, as in said notice may be specified; but said board, if it shall become satisfied that the danger from said house or part thereof has ceased to exist, may revoke said order, and it shall thenceforward become inoperative.

Notice to be posted and served.

Order may be revoked.

Houses hereafter erected or converted to comply with additional requirements.

SECT. 12. No house hereafter erected shall be used as a tenement house or lodging-house, and no house heretofore erected and not now used for such purpose, shall be converted into, used or leased for a tenement or lodging-house, unless, in addition to the requirements hereinbefore contained, it conforms to the requirements contained in the following sections.

Distances between buildings on front and rear of lot.

SECT. 13. It shall not be lawful hereafter to erect for or convert to the purposes of a tenement or lodging-house a building on the front of any lot where there is another building on the rear of the same lot, unless there is a clear, open space, exclusively belonging to the front building and extending upwards from the ground, of at least ten feet, between said buildings, if they are one story high, above the level of the ground; if they are two stories high, the distance between them shall not be less than fifteen feet; if they are three stories high, the distance between them shall be twenty feet; and if they are more than three stories high, the distance between them shall be twenty-five feet. At the rear of every building hereafter erected for or converted to the purposes of a tenement or lodging-house on the back part of any lot, there shall be a clear, open space of ten feet between it and any other building. But when thorough ventilation of such open spaces can be otherwise secured, said distances may be lessened or modified, in special cases, by a permit from the board of health or the superintendent.

Buildings on rear of lot.

Distances may be modified.

H o rooms.

SECT. 14. In every such house hereafter erected or converted, every habitable room, except rooms in the attic, shall be in every part not less than eight feet in height from the floor to the ceiling; and every habitable room in the attic of any such building shall be at least eight feet in height from the floor to the ceiling, throughout not less than one-

half the area of such room. Every such room shall have at least one window connecting with the external air, or over the door a suitable ventilator, connecting it with a room or hall which has a connection with the external air. The total area of window in every room communicating with the external air, shall be equal to at least one-tenth of the superficial area of every such room; and the top of one, at least, of such windows shall not be less than seven feet and six inches above the floor, and the upper half of each window shall be so made as to open for the purposes of ventilation. Every habitable room of a less area than one hundred superficial feet, if it does not communicate directly with the external air, and is without an open fire-place, shall be provided with special means of ventilation by a separate air-shaft extending to the roof, or otherwise, as the board of health may prescribe.

Windows.

Size of windows.

Small room to have special ventilation.

SECT. 15. *Every such house hereafter erected or converted, shall have adequate chimneys running through every floor, with an open fire-place or grate, or place for a stove, properly connected with one of said chimneys, for every family and set of apartments. It shall have proper conveniences and receptacles for ashes and rubbish; it shall have water furnished at one or more places in such house, or in the yard thereof, so that the same may be adequate and reasonably convenient for the use of the occupants thereof. It shall have the floor of the cellar properly cemented, so as*

Chimneys.

Ashes and rubbish.

Water.

Cellar floor.

Halls open at ends.

to be water tight. The halls on each floor shall open directly to the external air, with suitable windows, and shall have no room or other obstruction at the end, unless sufficient light or ventilation is otherwise provided for said halls, in a manner approved by the board or the superintendent.

Punishment for violation.

SECT. 16. Every owner or other person violating any provision of this act, after the same shall take effect, shall be guilty of a misdemeanor, punishable by a fine not exceeding one hundred dollars, or by imprisonment not exceeding sixty days.

Definition of tenement house.

SECT. 17. *A tenement house within the meaning of this act, shall be taken to mean and include every house, building, or portion thereof which is rented, leased, let or hired out to be occupied, or is occupied as the house or residence of more than three families living independently of another, and doing their cooking upon the premises, or by more than two families upon a floor, so living and cooking, but having a common right in the halls, stairways, yards, water-closets or privies, or some of them.*

Definition of lodging house.

A lodging house shall be taken to mean and include any house or building, or portion thereof, in which persons are lodged for hire for a single night, or for less than a week at one time.

Definition of cellar.

A cellar shall be taken to mean and include every basement or lower story of any building or house, of which one-half or more of the height from the floor to the ceiling is below the level of the street adjoining.

SECT. 18. The board of health shall have authority to make other regulations as to cellars and as to ventilation, consistent with the foregoing, where it shall be satisfied that such regulations will secure equally well the health of the occupants. All complaints under this act shall be made only by authority of the board of health, and the municipal court of the City of Boston shall have jurisdiction concurrent with the superior court of all offences against the provisions of this act. [*Approved June 4, 1868.*] Board of Health may modify.

APPENDIX.

An Ordinance to amend an Ordinance relating to the Public Health.

Section 2. The forty-second section of said ordinance is hereby stricken out and the following substituted therefor: —

Sect. 42. All vaults and privies shall be made of brick and cement, and contain at least eighty cubic feet, and so constructed that the inside of the same shall be at least two feet distant from the line of every adjoining lot, unless the owner of said adjoining lot shall otherwise agree and consent; and also from every street, lane, alley, court, square, or public place, or public or private passage-way, and so as to be conveniently approached, opened and cleaned. Every vault shall be made tight, so that the contents thereof cannot escape therefrom, except as provided in section forty-three. All preparations for cleaning a vault or privy shall be made by the person entering said vault or privy, and in case of neglect to make such preparation the same shall be made by the city, and the expense thereof be charged to such person.

SECT. 51.* All house offal, whether consisting of animal or vegetable substances, shall be placed in suitable vessels, and no ashes or other refuse matter shall be mingled therewith; and the same shall be kept in some convenient place, to be taken away by the city scavengers, which shall be done as often as twice in each week.

SECT. 52.† No person shall remove or carry in or through any of the streets, squares, courts, lanes, avenues, places, or alleys within the City of Boston, any house dirt, or house offal, animal, or vegetable, or any refuse substances from any of the dwelling-houses or other places in the city, unless such person so removing or carrying the same, and the mode in which the same shall be removed or carried, shall have been expressly licensed by the board of aldermen, upon such terms and conditions as they shall deem the health and interest of the city require. But all the ashes and cinders made from steam engines, or steam boilers, forges or furnaces, used for mechanical purposes, shall be removed at the ex-

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* All violations of this ordinance will be strictly enforced.

Ashes and offal placed in the same vessel will not be removed by the city. Waste water, dirt, and filth, found on private property, will subject the parties to prosecution.

† Parties engaged in the removal of Grease, Bones, and refuse substances from the city, are required by the above Section of Ordinance to first obtain a License from the Health Office, and all violations will be strictly enforced.

pense of parties occupying the building, or the owners thereof, and at such times and in such manner as the superintendent of health shall direct.

SECT. 53. No person, without the license of the board of aldermen, shall throw into or leave in or upon any street, court, square, lane, alley, wharf, public square, public enclosure, vacant lot, or any pond or body of water within the limits of the city, any dead animal, dirt, sawdust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster clam, or lobster shells, waste water, rubbish or filth of any kind, or any refuse animal or vegetable matter whatsoever.

SECT. 62. Every person offending against any of the provisions of this ordinance, in relation to which a penalty is not prescribed by the laws of the Commonwealth, shall forfeit and pay a sum not less than five dollars nor more than fifty dollars for each offence.

HEALTH.

STATUTES.

1. Towns to choose board of health, or health officer; or selectmen to act.
2. City council to appoint board of health, or make either or both branches, or a committee, the board.
3. Board may appoint physician.
4. Compensation of physician, &c.
5. Boards of health may delegate to agents.

Nuisances, Contagion, &c.

6 Board to make regulations respecting nuisances, &c.
7. Board to give notice of their regulations.
8. Board to examine into and abate nuisances, &c.
9. Board to order nuisances, &c., abated; penalty on owner of land, &c., for refusing.
10. Order of abatement, how served.
11. Owner not complying, board to remove the nuisance at his expense.
12. Board may notify occupants of unfit dwelling-place to quit, &c.
13. When a party is convicted of nuisance, court may order it destroyed.
14. Superior court may issue injunctions in cases of nuisance.
15. Board may make compulsory examination of premises, when refused, &c.
16. Board may grant permits for the removal of infected articles or sick persons.
17. Board to make necessary provision for persons infected with dangerous diseases.
18. If infected persons cannot be removed, others may be.

19. Persons may be stationed on borders of other States, to examine, &c.

20. Two justices of the peace may issue warrant to remove sick persons.

21. One justice may issue warrant to sheriff to secure infected articles, who may impress aid.

22. Sheriff may take up houses and stores, &c., for safe-keeping of goods, &c.

23. Officers may break open houses, shops, &c., and command aid.

24. Expenses to be paid by owners of goods.

25. Town to make compensation for houses, &c., or services impressed.

26. Removal of prisoners attacked with disease.

27. Return of removal to be made to court; such removal not an escape.

Vaccination.

28. Parents, &c., to cause children and wards to be vaccinated. Penalty for neglect.

29. Selectmen, &c., to enforce vaccination and re-vaccination. Penalty for neglect.

30. Towns to provide means for vaccination.

31. Inmates of manufactories, alms-houses, &c., to be vaccinated.

32. Towns may make further provision for vaccination.

Quarantine.

33. Towns may establish quarantine ground.

34. Two or more towns may establish a common quarantine ground.

35. Board of health may establish the quarantine of vessels.

36. Quarantine regulations to extend to all persons, &c.

37. Penalty for violation after public notice.

38. Vessels suspected of infection to be ordered to quarantine ground.

39. Penalty if master, seamen, &c., refuse to make answer on oath, &c.

40. Quarantine expenses to be paid by person or owner.

Hospitals and Dangerous Diseases.

41. Hospitals may be provided by towns.

42. Hospitals to be under orders of board of health.

43. Hospitals not to be established within one hundred rods of house in adjoining town, unless, &c.

44. Physicians and others in hospitals to be subject to board of health.

45. Board of health to provide hospital or other place when, &c.; may cause sick and infected persons to be removed to hospitals.

46. Selectmen to give notice, by suitable signals, of infected places.

47. Penalty on physicians and others in hospitals, &c., for violating regulations.

48. Every householder to give notice of dangerous disease in his family. Penalty.

49. Penalty on physicians for not giving notice of dangerous disease.

50. Expenses recoverable of individuals, how sued for.

51. Fines and forfeitures to inure to use of town.

52. Certain provisions not to apply to small-pox.

Offensive Trade.

53. Board to assign places for exercising offensive trades, and may prohibit.

54. Superior court may, on complaint, revoke such assignment.

55. Action for damages from nuisance.

56. Orders of prohibition, &c., to be served on occupant. If he refuses to obey, board may prevent. Penalty.

57. Appeal by person aggrieved. Proceedings.

58. Trade not to be exercised pending proceedings

59. Verdict of jury may alter, &c., order; to be returned for acceptance.

60. Costs, — how and when assessed, on whom, and to what amount.

61. Chapter extends to cities.

Nuisance caused by Wet Lands.

62. Wet lands to be redeemed.

63. When a nuisance, how abated.

64. Hearing may be had.
65. Notice of, how served, etc.
66. Expense and damages, how assessed.
67. Record to be made.
68. Proceedings if board of health refuse to act.
69. Appeal, how made.

Dead Bodies.

70. Overseers of the poor, &c., to permit physicians to take dead bodies in certain cases.
71. Physicians, &c., to give bond on receiving a dead body.
72. Persons having charge of poor house, &c., to give notice of death.
73. Dead bodies not to be given to physicians if claimed by friends, or if deceased requested to be buried, &c.
74. Violations of sepulture, penalty for.
75. Buying, or having dead body for purpose of sale, penalty for.

Cemeteries and Burials.

76. Towns to provide burial-places.
77. Private land not to be used for burial purposes, except, &c.
78. Boards of health to make necessary regulations, &c.
79. Boards of health to give notice of regulations.
80. Notice to be given before closing tombs, &c., by order of board.
81. Appeal from order of board.
82. Appeal to be tried by a jury. Costs.
83. Penalty for interments in violation of this chapter.
84. Injury to tombs or cemeteries, &c.
85. Same. Penalties.
86. Making roads, canals, &c., through burying-grounds prohibited. Penalty.

Offences against the Public Health.

87. Selling corrupt or unwholesome provisions without notice.
88. Killing for sale or selling calves less than four weeks old.

89. Search warrant for such meat may be issued.
90. Adulterating food.
91. Adulteration of liquor, &c., with *cocculus indicus*, &c.
92. Adulteration of drugs and medicines.
93. Wilfully corrupting springs, &c., or injuring aqueduct.
94. Persons selling arsenic, &c., to keep record, &c. Purchasers who give false name, &c.
95. Damaged fish not to be sold or exported, &c. Penalty.

ORDINANCE.

1. Board of aldermen shall constitute the board of health.
2. Mayor to protect public health, and enforce all laws and ordinances.
3. A superintendent of health chosen by city council.
4. He may appoint an assistant.
5. To execute all laws and ordinances on the subject of health.
6. To give bond.
7. Duties of superintendent to keep records and make reports to the city council.
8. To report an estimate to auditor of the wants of his department.
9. To have charge of city teams, stables, &c.
10. To make and deliver all bills for materials sold and work done to city treasurer, for collection.
11. To make up pay-rolls of laborers.

Interment of the Dead.

12. Interment of dead shall be under superintendence of city registrar.
13. He shall have care of burying-grounds.
14. May give licenses for burials, &c.
15. Dead bodies shall not be buried without license.
16. Graves shall be three feet deep.
17. Funeral undertakers. Porters. No other person shall open any tomb, &c.
18. Time for burials. Tolling of bells prohibited, except, &c. Funeral car to be used, except, &c.

19. No grave to be dug in city proper without permission.

20. No dead body to be removed from city without license.

21. No dead body in graves or tombs to be disturbed without license.

22. No grave or tomb to be opened from June to October, without license.

23. Burial fees.

24. Board of aldermen may make regulations in relation to burials.

City Physicians.

25. City physician to be elected.

26. Consulting physicians to be elected. Their duties.

27. City physicians shall examine into nuisances, &c.

28. His apartment. He shall vaccinate inhabitants who apply, &c. Proviso.

29. To keep and supply vaccine virus.

30. To examine cases of disease when called upon by mayor and aldermen, &c.

31. To attend cases of disease, &c., at jail and city prisons, &c.

32. To keep record of cases of small-pox, &c.

33. To keep record of doings of his office.

34. Harbor master shall report to city physician vessels having hides, &c.

35. Master of such vessel shall give notice to the harbor master or city physician.

Quarantine.

36. Quarantine ground.

37. Port physician to be elected.

38. To reside at Deer Island, and superintend quarantine hospital, &c.

39. To keep record of cases of small-pox, &c.

40. To keep record of his other doings.

41. Assistant port physician.

Nuisances.

42. Owners, &c., of dwelling-houses, &c., shall furnish them with suitable drains and privies. Penalty .

43. How vaults and privies shall be constructed.

44. Vaults may be connected with common sewers, by permission of superintendent sewers.

45. Proceedings, where a suitable privy, vault, and drain is not constructed.

46. Offensive vaults, privies, and drains shall be cleansed.

47. Regulations as to cleansing vaults and privies.

48. Applications for cleansing vaults. What sum shall be paid therefor.

49. Further regulations.

50. Waste water to be carried off in drains.

51. Board of Aldermen may remove persons from tenements, where too numerous, or when unprovided with vaults, &c.

52. House offal, how to be kept.

53. Ashes, how to be kept.

54. Manner of its removal. Not to be removed without license. Ashes, &c., from steam engines, furnaces, &c., to be removed by owner,

55. No filth shall be thrown into the streets, &c.

56. Penalty.

57. Filth, &c., may be removed by order of the board of aldermen.

58. Sale and keeping of fish regulated.

59. Fish, &c., not to be sold, &c., in certain streets, except, &c.

60. To be divested of parts not used for food.

61. Swine and goats not to be kept without license.

62. Horses and carriages not to be washed in streets, &c.

63. Damaged grain, meat, fish, &c., not to be brought into city or landed without a permit.

64. Penalties for offences against this ordinance.

ORDER.

Establishing quarantine fees.

STATUTES.*

Towns to choose board of health or health officers; or selectmen to act. G. S. 26, § 1. 8 Cush. 68.

1. A town respecting which no provision is made by special law for choosing a board of health, may, at its annual meeting, or at a meeting legally warned for the purpose, choose a board of health, to consist of not less than three nor more than nine persons; or may choose a health officer. If no board or officer is chosen, the selectmen shall be the board of health.

City council to appoint board health, or, &c. Ibid. § 2.

2. Except where different provision is made by law, the city council of a city may appoint a board of health; may constitute either branch of such council, or a joint or separate committee of their body, a board of health, either for general or special purposes, and may prescribe the manner in which the powers and duties of the board shall be exercised and carried into effect. In default of the appointment of a board with full powers, the city council shall have the powers and perform the duties prescribed to boards of health in towns.

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* By chapter 420, of the acts of 1869, a State board of health was established, consisting of seven persons, to hold office for seven years. "They shall make sanitary investigations and inquiries in respect to the people, the causes of disease, and especially of epidemics and the sources of mortality and the effects of localities, employments, condition and circumstances, on the public health; and they shall gather such information in respect to those matters as they may deem proper, for diffusion among the people. They shall advice the government in regard to the location of any public institutions."

3. Every board of health may appoint a physician to the board, who shall hold his office during its pleasure. Board may appoint physician. Ibid § 3.

4. The board shall establish the salary or other compensation of such physician, and shall regulate all fees and charges of persons employed by it in the execution of the health laws and of its own regulations. Compensation of physician, &c. Ibid. § 4.

5. Boards of health in the several cities and towns in this commonwealth may appoint an agent or agents to act for them, respectively, in cases of emergency, or when such board cannot be conveniently assembled; and such agent so appointed shall have, and may exercise, all the authority which the board of health appointing him had; but he shall within two days report his action in each case to the board of health for their approval, and shall be directly responsible to, and under the control and direction of, the board of health from which he received such appointment. Boards of Health may delegate agents 1866, c. 271, § 1.

NUISANCES, CONTAGION, ETC,

6. The board shall make such regulations as it judges necessary for the public health and safety, respecting nuisances, sources of filth, and causes of sickness within its town, or on board of vessels within its harbor; and respecting articles which are capable of containing or conveying infection or contagion, or of creating sickness, brought into or conveyed from, its town, or into, or from, any vessel. Whoever violates any such regulation shall forfeit a sum not exceeding one hundred dollars. Board to make regulations respecting nuisances, &c. G. S. 26, § 5. 12 Pick. 184.

Board to give notice of regulations. Ibid. § 6.

7. Notice shall be given by the board of all regulations made by it, by publishing the same in some newspaper of its town, or where there is no such newspaper by posting them up in some public place in the town. Such notice shall be deemed legal notice to all persons.

To examine into and abate nuisances, &c. Ibid, § 7. 11 Met. 572.

8. The board shall examine into all nuisances, sources of filth, and causes of sickness within its town, or in any vessel within the harbor of such town, that may in its opinion be injurious to the health of the inhabitants, and the same shall destroy, remove or prevent, as the case may require.

To order nuisances, &c., abated. Penalty for refusing. G. S. 26, § 8. c. 87, § 5. c. 88 §§ 40, 42. 1862, c 74.

9. The board or the health officer shall order the owner or occupant at his own expense to remove any nuisance, source of filth, or cause of sickness, found on private property, within twenty-four hours, or such other time as it deems reasonable after notice served as provided in the following section; and if the owner or occupant neglects so to do, he shall forfeit a sum not exceeding twenty dollars for every day during which he knowingly permits such nuisance or cause of sickness to remain after the time prescribed for the removal thereof.

Order for abatement, how served. Ibid. § 9. c. 87, § 5. c. 88, §§ 40, 42. 1862. c. 74. 98 Mass. 431.

10. Such order shall be made in writing, and served by any person competent to serve a notice in a civil suit, personally on the owner, occupant, or his authorized agent: or a copy of the order may be left at the last and usual place of abode of the owner, occupant or agent, if he is known nd within the State. But if the premises

are unoccupied, and the residence of the owner or agent is unknown or without the State, the notice may be served by posting the same on the premises and advertising in one or more public newspapers, in such manner and for such length of time as the board or health officer may direct.

Owner net complying, board to remove nuisance at his expense. Ibid, § 10. c. 87, § 5. c. 88, §§ 40, 42. 1862, c. 74. 98 Mass. 431.

11. If the owner or occupant fails to comply with such order, the board may cause the nuisance, source of filth, or cause of sickness to be removed, and all expenses incurred thereby shall be paid by the owner, occupant, or other person who caused or permitted the same, if he has had actual notice from the board of health of the existence thereof.

Board may notify occupants of unfit dwelling-places to quit, &c. G. S. 26, § 11. 11 Met. 572.

12. The board, when satisfied upon due examination that any cellar, room, tenement,* or building in its town, occupied as a dwelling-place, has become, by reason of the number of occupants, or want of cleanliness, or other cause, unfit for such purpose and a cause of nuisance or sickness to the occupants, or the public, may issue a notice in writing to such occupants, or any of them, requiring the premises to be put into a proper condition as to cleanliness, or, if they see fit, requiring the occupants to remove or quit the premises within such time as the board may deem reasonable. If the person so notified, or any of them, neglect or refuse to comply with the terms of the notice, the board may cause the premises to

*See "Tenement Houses," *post*, § 11.

be properly cleaned at the expense of the owners, or may remove the occupants forcibly and close up the premises, and the same shall not be again occupied as a dwelling-place without the consent in writing of the board. If the owner thereafter occupies or knowingly permits the same to be occupied without such permission in writing, he shall forfeit a sum not less than ten nor more than fifty dollars.

When a party convicted of a nuisance, court may order it destroyed. Ibid. § 1.

13. When a person is convicted on an indictment for a common nuisance injurious to the public health, the court in their discretion may order it to be removed or destroyed at the expense of the defendant, under the direction of the board of health; and the form of the warrant to the sheriff or other officer may be varied accordingly.

Court may issue injunctions, in cases of nuisance. Ibid. § 13.

14. The superior court, or a justice thereof in term time or vacation, may, either before or pending a prosecution for a common nuisance affecting the public health, issue an injunction to stay or prevent the same until the matter shall be decided by a jury or otherwise; may enforce such injunction according to the course of proceedings in chancery; and may dissolve the same when the court or one of the justices shall think proper.

Board may make compulsory examination of premises, when refused, &c. Ibid. § 14.

15. When the board think it necessary for the preservation of the lives or health of the inhabitants, to enter any land, building, or vessel within its town, for the purpose of examining into and destroying, removing, or preventing any nuisance, sourc

of filth, or cause of sickness, and shall be refused such entry, any member of the board may make complaint under oath to two justices of the peace of the county, stating the facts of the case so far as he has knowledge thereof, and the justices may thereupon issue a warrant directed to the sheriff or either of his deputies, or to any constable of such town, commanding him to take sufficient aid, and being accompanied by any two or more members of said board, at any reasonable time to repair to the place where such nuisance, source of filth, or cause of sickness complained of may be, and the same to destroy, remove, or prevent, under the direction of such members of the board. G. S. 20, § 14.

16. The board may grant permits for the removal of any nuisance, infected articles, or sick person, within the limits of its town, when it thinks it safe and proper so to do. May permit removal of infected articles, &c. Ibid. § 15.

17. When any person coming from abroad or residing in any town in this State is infected, or lately has been infected, with the plague or other sickness dangerous to the public health, except as is otherwise provided in this chapter, the board shall make effectual provision in the manner which it judges best for the safety of the inhabitants, by removing such person to a separate house or otherwise, and by providing nurses and other assistants and necessaries, which shall be at the charge of the person himself, his parents, or master, if able, otherwise at the charge of the town to which he belongs; Shall make provisions for persons infected. Ibid. § 16. 2 Cush. 52. See § 52.

and if he is not an inhabitant of any town, at the charge of the commonwealth.

If infected person cannot be removed, others may be, &c. Ibid. § 17. See § 52.

18. If the infected person cannot be removed without danger to his health, the board shall make provision for him as directed in the preceding section in the house in which he may be; and may cause the persons in the neighborhood to be removed, and take such other measures as it judges necessary for the safety of the inhabitants.

Persons may be stationed in places bordering on other States, to examine, Ibid, § 18.

19. The board of health of any town near to or bordering upon either of the neighboring States, may appoint, by writing, suitable persons to attend at places by which travellers may pass from infected places in other States; who may examine such travellers as it suspects of bringing any infection dangerous to the public health, and if need be may restrain them from travelling until licensed thereto by the board of health of the town to which such person may come. A traveller coming from such infected place, who shall without such license travel within this State (except to return by the most direct way to the State from whence he came), after he has been cautioned to depart by the persons so appointed, shall forfeit a sum not exceeding one hundred dollars.

Two justices of the peace may issue warrant to remove sick persons. Ibid. § 19.

20. Two justices of the peace may, if need be, make out a warrant, directed to the sheriff of the county, or his deputy, or to any constable, requiring them, under the direction of the board, to remove any person infected with contagious sickness, or to impress and take up convenient houses, lodg-

ng, nurses, attendants, and other necessa-
ries, for the accommodation, safety, and
relief of the sick.

21. When, upon the application of the board, it appears to a justice of the peace that there is just cause to suspect that any baggage, clothing, or goods found within the town, are infected with the plague or other disease which may be dangerous to the public health, the justice shall, by warrant directed to the sheriff or his deputy, or to any constable, require him to impress so many men as said justice may judge necessary to secure such baggage, clothing, or other goods, and to post said men as a guard over the house or place where such articles are lodged; who shall take effectual care to prevent persons from removing or coming near the same, until due inquiry is made into the circumstances.

One justice may issue warrant to sheriff to secure infected articles, who may impress aid. G. S. 26, § 20.

22. The justice may, by the same warrant, if it appears to him necessary, require the officers, under the direction of the board, to impress and take up convenient houses or stores for the safe-keeping of such articles; and the board may cause them to be removed thereto, or otherwise detained, until, in the opinion of the board, they are freed from infection.

Sheriff may take houses and stores, &c., for safe-keeping of goods, &c. Ibib. § 21.

23. The officers, in the execution of the warrant, shall, if need be, break open any house, shop, or other place mentioned in the warrant where such articles are; and may require such aid as is necessary to effect the execution of the warrant. Who-

Officers may break open houses, shops, &c., and command aid. Ibid. § 22.

ever neglects or refuses to assist in the execution of the warrant, after being commanded to assist by either of said officers, shall forfeit a sum not exceeding ten dollars.

Expenses to be paid by owners of goods. Ibid. § 23.

24. The charges of securing such articles, and transporting and purifying the same, shall be paid by the owners, at such rates and prices as may be determined by the board.

Town to make compensation for houses, &c. or services impressed. Ibid. § 4.

25. When a sheriff or other officer impresses or takes up any houses, stores, lodging, or other necessaries, or impresses men, as provided in this chapter, the several parties interested shall be entitled to a just compensation therefor, to be paid by the town in which such persons or property are so impressed.

Removal of prisoners attacked with disease. Ibid. § 25.

26. When a person confined in a common jail, house of correction, or workhouse has a disease which, in the opinion of the physician of the board or of such other physician as it may consult, is dangerous to the safety and health of other prisoners or of the inhabitants of the town, the board shall, by its order in writing, direct the removal of such person to some hospital or other place of safety, there to be provided for and securely kept so as to prevent his escape until its further order. If such person recovers from the disease, he shall be returned to said prison or other place of confinement.

Return of removal to be made to court

27. If the person so removed is committed by order of court or under judicial

process, the order of his removal, or a copy thereof, attested by the presiding member of the board, shall be returned by him, with the doings thereof, into the office of the clerk of the court from which process of commitment was issued. No prisoner so removed shall thereby commit an escape.

Such removal not an escape. Ibid. § 26. G. S. 26, § 26.

VACCINATION.

28. Parents and guardians shall cause their children and wards to be vaccinated before they attain the age of two years, and re-vaccinated whenever the selectmen or mayor and aldermen shall after five years from the last vaccination require it. For every year's neglect, the party offending shall forfeit the sum of five dollars.

Parents, &c., to cause children, &c. to be vaccinated. Penalty for neglect. Ibid. § 27.

29. The selectmen and mayor and aldermen shall require and enforce the vaccination of all the inhabitants, and, whenever in their opinion the public health requires, the re-vaccination of all the inhabitants who do not prove to their satisfaction that they have been successfully vaccinated or re-vaccinated within five years. All persons over twenty-one years of age, not under guardianship, who neglect to comply with any such requirement, shall forfeit the sum of five dollars.

Selectmen, &c. to enforce vaccination, &c. Penalty for neglect. Ibid. § 28.

30. Towns shall furnish the means of vaccination to such of their inhabitants as are unable to pay for the same.

City to provide means. Ibid. § 29.

31. Incorporated manufacturing companies; superintendents of almshouses, State reform and industrial schools, lunatic hos-

Inmates of manufactories, almhouses, &c.

to be vaccinated. Ibid. § 30.

pitals, and other places where the poor and sick are received; masters of houses of correction, jailers, keepers of prisons, the warden of the State prison; and superintendents or officers of all other institutions supported or aided by the State, shall, at the expense of their respective establishments or institutions, cause all inmates thereof to be vaccinated immediately upon their entrance thereto, unless they produce sufficient evidence of previous successful vaccination within five years.

Towns may make further provision for vaccination. Ibid. § 31.

32. Each town may make further provision for the vaccination of its inhabitants, under the direction of the board or a committee chosen for the purpose.

QUARANTINE.

City may establish a quarantine ground. Ibid. § 32.

33. A town may establish a quarantine ground in a suitable place either within or without its own limits; but if such place is without its limits, the assent of the town within whose limits it may be established shall be first obtained.

Two or more may establish a common quarantine ground. Ibid. § 33.

34. Two or more towns may at their joint expense establish a quarantine ground for their common use in any suitable place either within or without their own limits; but if such place is without their limits, they shall first obtain the assent of the town within whose limits it may be.

Board of health may establish quarantine of vessels. G. S. 26, § 34.

35. The board of health in each seaport town may from time to time establish the quarantine to be performed by vessels arriving within its harbor; and may make

such quarantine regulations as it judges necessary for the health and safety of the inhabitants.

Whenever quarantine is imposed on any vessel coming from abroad, and the owner, consignee, master, or other person interested in such vessel or her cargo, shall be interrogated by any member of the board of health in his official capacity, or by the visiting physician of said board, respecting any circumstance or event, touching the health of the crew or passengers on such vessel, or any infection suspected in the cargo, from the time of her first engaging upon the voyage she may then be terminating, and the said owner, consignee, master or other person interested as aforesaid, shall make any false or unfounded declaration respecting the points under examination, every such owner, consignee, master or other interested person, upon conviction thereof, in manner as pointed out in the eighth section of the law* to which this is an addition, shall forfeit and pay a fine not exceeding five hundred dollars, suffer six months' imprisonment, either or both, at the discretion of the court having cognizance of such offence.

Penalty if owner or master of vessel make false declaration. Spec. Laws, v. 3, p. 211, § 3.

36. Such regulations shall extend to all persons, goods, and effects arriving in such vessels, and to all persons who may visit or go on board of the same.†

Quarantine regulations to extend to all, &c. G. S. 26, § 35.

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* 1799, c. 10, § 8.

† See *quarantine fees*, post.

Penalty for violation after notice. Ibid. § 36.

37. Whoever violates any such regulation after notice thereof has been given in the manner before provided in this chapter, shall forfeit a sum not less than five nor more than five hundred dollars.

Vessels suspected of infection to be ordered to quarantine. Ibid. § 37.

38. The board in each seaport town may at all times cause a vessel arriving in such port, when such vessel or the cargo thereof is in its opinion foul or infected so as to endanger the public health, to be removed to the quarantine ground and thoroughly purified at the expense of the owners, consignees, or persons in possession of the same; and may cause all persons arriving in or going on board of such vessel, or handling the cargo, to be removed to any hospital under the care of the board, there to remain under their orders.

Penalty, if master, seaman, &c., refuse to answer on oath, &c. Ibid. § 38. G. S. 26, § 38.

39. If a master, seaman or passenger belonging to a vessel on board of which any infection then is or has lately been, or is suspected to have been, or which has been at, or has come from, a port where any infectious distemper prevails that may endanger the public health, refuses to make answer on oath to such questions as may be asked him relating to such infection or distemper by the board of health of the town to which such vessel may come (which oath any member of the board may administer), such master, seaman, or passenger shall forfeit a sum not exceeding two hundred dollars; and if not able to pay such sum, he shall suffer six months imprisonment.

40. All expenses incurred on account of any person, vessel, or goods, under quarantine regulations, shall be paid by such person or the owner of such vessel or goods respectively.

Quarantine expenses, how paid by person or owner. Ibid. § 39.

HOSPITALS AND DANGEROUS DISEASES.

41. Any town may establish within its limits, and be constantly provided with, one or more hospitals for the reception of persons having a disease dangerous to the public health.

Hospital may be provided by towns. Ibid. § 40.

42. Such hospitals shall be subject to the orders and regulations of the board, or of a committee of the town appointed for that purpose.

To be under orders of board of health. Ibid. § 41.

43. No such hospital shall be established within one hundred rods of an inhabited dwelling-house situated in an adjoining town, without the consent of such town.

Hospitals not to be within, &c. Ibid. § 42.

44. When a hospital is so established, the physician, nurses, attendants, the persons sick therein, and all persons approaching or coming within the limits of the same, and all furniture and other articles used or brought there, shall be subject to such regulations as may be made by the board of health or the committee appointed for that purpose.

Physicians, &c., in hospitals subject to board of health. Ibid. § 43.

45. When a disease dangerous to the public health breaks out in any town, the board shall immediately provide such hospital or place of reception for the sick and infected as is judged best for their accommodation and the safety of the inhabitants;

Board of health to provide hospital, &c., and remove sick, &c. Ibid. § 44. See § 52.

which shall be subject to the regulations of the board; and the board may cause any sick and infected person to be removed thereto, unless the condition of such person will not admit of his removal without danger to his health, in which case the house or place where he remains shall be considered as a hospital, and all persons residing in or in any way concerned within the same shall be subject to the regulations of the board as before provided.

Selectmen to give notice of infected places. Ibid. § 45. See § 52.

46. When such disease is found to exist in a town, the selectmen and board of health shall use all possible care to prevent the spreading of the infection, and to give public notice of infected places to travellers, by displaying red flags at proper distances, and by all other means which in their judgment shall be most effectual for the common safety.

Penalty on persons in hospitals, &c. for violating regulations. G. S. 26, § 46. See § 52.

47. If a physician or other person in any of the hospitals or places of reception before mentioned, or who attends, approaches, or is concerned with the same, violates any of the regulations lawfully made in relation thereto, either with respect to himself, or his or any other person's property, he shall for each offence forfeit a sum not less than ten nor more than one hundred dollars.

Householders to give notice of dangerous diseases. Penalty. Ibid. § 47.

48. When a householder knows that a person within his family is taken sick of small-pox or any other disease dangerous to the public health, he shall immediately give notice thereof to the selectmen or board of health of the town in which he dwells. If

he refuses or neglects to give such notice, he shall forfeit a sum not exceeding one hundred dollars.

Penalty on physician for not giving notice of dangerous disease, Ibid, § 48.

49. When a physician knows that any person whom he is called to visit is infected with small-pox or any other disease dangerous to the public health, he shall immediately give notice thereof to the selectmen or board of health of the town; amd if he refuses or neglect to give such notice he shall forfeit for each offence a sum not less than fifty nor more than one hundred dollars.

Expenses recoverable of individuals; how sued for. Ibid. § 49.

50. Expenses incurred by a town in the removal of nuisances or for the preservation of the public health, and which are recoverable of a private person or corporation by virtue of any provisions of law, may be sued for and recovered in an action of contract.

Fines and forfeitures to inure to use of town, Ibid. § 50. See G. S. 19, § 15. 5 Cush. 408. Small-pox, Ibid. § 51.

51. Fines and forfeitures incurred under general laws, the special laws applicable to a town, or the by-laws and regulations of a town relating to health, shall inure to the use of such town.

52. The provisions of sections seventeen, eighteen, forty-five, forty-six and forty-seven, shall not apply to small-pox.

OFFENSIVE TRADES.

Board to assign places for exercising offensive trades, and may prohibit. Ibid. § 52, See § 56. 6 Gray, 473.

53. The board shall from time to time assign certain places for the exercising of any trade or employment which is a nuisance or hurtful to the inhabitants, or dangerous to the public health, or the exercise of which is attended by noisome and injurious

8 Allen, 325. 11 Allen, 398.

odors, or is otherwise injurious to their estates, and may prohibit the exercises of the same in places not so assigned; the board may also forbid the exercise of such trade or employment within the limits of the town or in any particular locality thereof. All such assignments shall be entered in the records, and may be revoked when the board shall think proper.

Superior court may, on complaint, revoke such assignment. Ibid. § 53. G. S. 26, § 52.

54. When it appears on a trial before the superior court for the county, upon a complaint made by any person, that any place or building so assigned has become a nuisance, by reason of offensive smells or exhalations proceeding from the same, or is otherwise hurtful or dangerous to the neighborhood or to travellers, the court may revoke such assignment and prohibit the further use of such place or building for the exercise of either of the aforesaid trades or employments, and may cause such nuisance to be removed or prevented.

Action for damages for nuisance. Ibid. § 54.

55. A person injured either in his comfort or the enjoyment of his estate by such nuisance, may have an action of tort for the damage sustained thereby.

Orders of prohibition, &c., to be served on occupant. If he refuses to obey, board may prevent. Penalty. Ibid. § 55. Allen, 398.

56. Orders of prohibition under section fifty-three shall be served upon the occupant or person having charge of the premises where such trade or employment is exercised. If the party upon whom such order is served, for twenty-four hours after such service refuses or neglects to obey the same, the board shall take all necessary measures to prevent such exercise; and the

person so refusing or neglecting shall forfeit a sum not less than fifty nor more than five hundred dollars.

Appeal by person aggrieved. Proceedings. Ibid. § 56 1865, c. 263.

57. Any person aggrieved by such order may appeal therefrom, and shall, within three days from the service thereof upon him, apply to the superior court, if in session in the county where such order is made, or in vacation to any justice of said court, for a jury; and such court or justice shall issue a warrant for a jury, to be impanelled at a time and place expressed in the warrant, in the manner provided in regard to the laying out of highways. Whenever any person by mistake of law, or fact, or by accident fails to appeal from any order of any board of health and to apply to the superior court of any justice thereof for a jury within the three days limited therefor by this section, such person may at any time thereafter appeal from such order and apply for a jury with the same effect as if done within the said three days; *provided*, that such person so appealing and applying shall make it appear to the court or justice that such failure was caused by mistake or accident; and *provided, also*, that such appeal and application shall be made within thirty days after service of such order upon such applicant.

Trade not to be exercised meanwhile. Ibid. § 57.

58. During the pendency of the appeal such trade or employment shall not be exercised contrary to the order; and upon any violation of the same the appeal shall forthwith be dismissed.

Verdict of jury may alter, &c., order; to be returned for acceptance, &c. Ibid. § 58,

59. The verdict of the jury, which may either alter the order, or affirm or annul it in full, shall be returned to the court for acceptance, as in case of highways; and said verdict, when accepted, shall have the authority and effect of an original order from which no appeal had been taken.

Costs — how and when assessed; on whom; and to what amount. Ibid, § 59. G. S. 26, § 59.

60. If the order is affirmed by the verdict, the town shall recover costs against the appellant; if it is annulled, the appellant shall recover damages and costs against the town; and if it is altered, the court may render such judgment as to costs as in their discretion may seem just.

Provisions of this chapter extend to cities. Ibid. § 60.

61. The provisions of this chapter extend to cities so far as the same are not inconsistent with their several charters or acts in amendment thereof.

NUISANCE CAUSED BY WET LANDS.*

Wet lands to be redeemed. 1868, c. 160, § 1.

62. By an act passed April 29, 1868, the provisions of chapter twenty-six of the General Statutes, relating to the preservation of the public health, were extended as

* See chap. 308, 1867, authorizing the city to purchase or otherwise take the lands, with the buildings and other fixtures thereon, situated and lying within the *Church street District*, so called, for the purpose of abating a nuisance and preserving the public health; also, chap. 277, 1868, authorizing the taking of lands within the *Suffolk street District*, so called, for the same purpose. For the action of the city council under the same, see City Doc. 41, 1868; and, also, the opinion of the supreme judicial court in the case of John T. Dingley *vs.* City of Boston, printed in City Doc. 34, 1869.

follows: When any lands in any city or town are wet, rotten, or spongy, or covered with stagnant water, so as to be offensive to persons residing in the vicinity thereof, or injurious to health, the same shall be deemed to be a nuisance, and the board of health or health officer of such city or town may, upon petition and hearing, abate such nuisance in the manner provided in the following sections.

When a nuisance how abated. Ibid. § 2.

63. Any one or more persons claiming to be injuriously affected by such nuisance may, by petition, describing the premises upon which such nuisance is claimed to exist, and setting out the nature of the nuisance complained of, apply to the board of health, or health officer for its abatement, whereupon such board of health, or health officer, shall proceed to view the premises and examine into the nature of such nuisance.

Hearing may be had. Ibid. § 3.

64. If upon such examination the board of health or health officer shall be of opinion that the prayer of the petition or any part thereof should be granted, he or they shall appoint a time and place for a hearing upon the petition, and before the time so appointed shall cause reasonable notice of the time and place to be given to the petitioners, the persons whose lands it may be necessary to enter upon to abate the nuisance, and any other persons who may be affected by the proceedings, and, except in those cities and towns in which the mayor and aldermen and selectmen constitute the board of health, to the mayor and chairman of the

selectmen, that they may be heard upon the necessity and mode of abating such nuisance, and the questions of damages, and of the assessment and apportionment of the expenses thereof.

Notice of, how served. 1868, c. 160, § 4.

65. Such notice shall be in writing, and may be served by any person competent to serve civil process, upon the mayor and chairman of the selectmen, the petitioners, the owner or occupant of any land upon which it may be necessary to enter, or which may be benefited thereby, or his authorized agent, or by leaving an attested copy of such notice at the last and usual place of abode of such persons; but if the lands are unoccupied, and the owner or agent is unknown, or without the State, the notice to such owner may be served by posting an attested copy.

Expense and damages, how assessed. Ibid. § 5.

66. At the time and place appointed for the hearing, the board of health or health officer shall hear the parties, and after such hearing may cause such nuisance to be abated, according to his or their discretion; and for that purpose may enter and make such excavations, embankments and drains upon any lands, and under and across any streets and ways as may be necessary for such abatement. They shall also determine in what manner and at whose expense the improvements made shall be kept in repair, and shall estimate and award the amount of damage sustained by and benefit accruing to any person by reason of such improvements, and what proportion of the expense of mak-

ng and keeping the same in repair shall be orne by the city or town or by any person enefited thereby. The damages so award- d shall be paid by the city or town, and iere shall be assessed to the several per- ons benefited by such improvements, his roportionate part, to be ascertained as be- ore provided, of the expense of making and eeping in repair such improvements, and ie same shall be included in the next city r town taxes of such persons, and shall be lien upon the real estate benefited thereby, id be collected in the same manner as her taxes upon real estate, and shall be able to abatement as other taxes now are.

67. The boards of health and health offi- r shall, within thirty days after the abate- ent of any nuisance in the manner herein- fore provided, make return to the city or wn clerk of their doings in the premises, hich return shall be by him recorded in the y or town books.

Record to be made. Ibid. § 6.

68. If the board of health or health offi- r shall unreasonably refuse or neglect to oceed in the matter of said petition, the titioner may apply by petition to the su- rior court or any justice thereof, who, on a hearing and good cause shown, may point three commissioners, who shall pro- ed in the manner hereinbefore provided.

Proceedings of board of health will not act. Ibid. § 7.

69. Any person aggrieved by the decision the board of health, health officer, or com- ssioners in their estimate and award of mages, may make complaint to the county mmissioners for the county, at any time

Appeals, how made. Ibid. § 8.

1868, c. 160, § 8. within one year after return to the city or town clerk, whereupon the same proceedings shall be had as are now provided by law in cases where persons or parties are aggrieved by the award of damages by selectmen for land taken for a town way.

DEAD BODIES.

Overseers of poor &c., to give dead bodies to physicians in certain cases. G. S. 27, § 1.

70. The overseers of the poor of a town, the mayor and aldermen of a city, and the inspectors and superintendent of a State almshouse, may, to any physician or surgeon, upon his request, give permission to take the bodies of such persons dying in such town, city or almshouse, as are required to be buried at the public expense, to be by him used within the State, for the advancement of anatomical science; preference being given to medical schools established by law, for their use in the instruction of students.*

Physicians, &c., to give bond on receiving a dead body, Ibid. § 2.

71. Every physician or surgeon, before receiving any such dead body, shall give to the board of officers surrendering the same to him, a sufficient bond that each body shall be used only for the promotion of anatomical science within this State, and so as in no event to outrage the public feeling; and that, after having been so used the remains thereof shall be decently buried.

Persons having charge of poor-houses,

72. Persons having charge of a poor house, workhouse, or house of industry, i

*See order of mayor and aldermen, passed November 9, 1866. City records, vol. 47, page 1287.

which a person required to be buried at the public expense dies, shall forthwith give notice of such death to the overseers of the poor of the town or to the mayor and aldermen of the city in which such deaths occur; and except in case of necessity, the body of such person shall not be buried until such notice is given, and permission therefor granted by such overseers or mayor and aldermen; nor without their permission shall the body be surrendered for dissection or mutilation.

&c., to give notice of death Ibid. § 3.

73. If the deceased person during his last sickness, of his own accord requested to be buried, or if, within twenty-four hours after his death, any person claiming to be and satisfying the proper authorities that he is a friend or of kindred to the deceased, asks to have the body buried, or if such deceased person was a stranger or traveller who suddenly died, the body shall not be so surrendered, but shall be buried.

When dead bodies are not to be given to physicians, &c Ibid. § 4.

74. Whoever not being authorized by the board of health, overseers of the poor, directors of a workhouse, selectmen, or mayor and aldermen of any city or town, or by the board of directors for public institutions, or overseers of the poor of the city of Boston, wilfully digs up, disinters, removes, or conveys away, any human body, or the remains thereof, or knowingly aids in such disinterment, removal, or conveying away, and whoever is accessory thereto, either before or after the fact, shall be punished by imprisonment in the State prison

Violation of sepulture, penalty for. G. S. 165, § 37. 10 Pick. 37. 19 Pick. 304, G. S. 165, § 37.

not exceeding one year, or in the jail not exceeding two years, or by fine not exceeding two thousand dollars.

Buying or having dead body for the purpose of sale, &c., penalty for Ibid. § 38.

75. Whoever buys, sells, or has in his possession for the purpose of buying or selling, or trafficking in, the dead body of any human being, shall be punished by fine of not less than fifty nor exceeding five hundred dollars, or by imprisonment in the jail not less than three months, nor exceeding three years.

CEMETERIES AND BURIALS.

Burial-places. G. S. 28, § 4.

76. Each town and city shall provide one or more suitable places for the interment of persons dying within its limits.

Private land not to be used for, except, &c. Ibid. § 5. See § 83.

77. Except in the case of the erection of a tomb on private land for the exclusive use of the family of the owner, no land, other than that already so used or appropriated, shall be used for the purpose of burial, unless by permission of the town or of the mayor and aldermen of the city in which the same is situated.

Boards of health to make regulations, &c Ibid. § 6. 8 Cush. 68. 13 Allen, 546.

78. Boards of health may make all regulations which they judge necessary concerning burial-grounds and interments within their respective limits; may prohibit the use of tombs by undertakers (as places of deposit for bodies committed to them for burial), for the purpose of speculation, and may establish penalties not exceeding one hundred dollars for any breach of such regulations.

79. Notice of such regulations shall be given by publishing the same in some newspaper of the town or city, or if there is no such newspaper, by posting a copy in some public place therein, which shall be deemed legal notice to all persons.

To give notice of regulations, Ibid. § 7. See § 74.

80. Before a tomb, burial-ground, or cemetery is closed by order of the board of health for a time longer than one month, all persons interested shall have an opportunity to be heard, and personal notice of the time and place of hearing shall be given to at least one owner of the tomb, and to three at least, if so many there are of the proprietors of such burial-ground or cemetery, and notice shall also be published two successive weeks at least preceding such hearing, in two newspapers, if so many there are published in the county.

Notice to be given before closing tombs, &c., by order of board. Ibid. § 8.

81. The owner of a tomb aggrieved by the order of the board of health closing any tomb, burial-ground, or cemetery, may appeal therefrom, and at any time within six months from the date of the order enter his appeal in the superior court, and the appellant shall give the board of health fourteen days' notice of his appeal previous to the entry thereof. But the order of the board shall remain in force until a decision shall be had on the appeal.

Appeal from order of board Ibid. § 9. G. S. 28, § 9.

82. Appeals shall be tried in regular course before the jury, and if the jury find that the tomb, burial-ground, or cemetery so closed was not a nuisance, nor injurious to the public health at the time of the order,

To be tried by a jury. Costs. Ibid. § 10.

the court shall rescind the same so far as it affects such tomb, burial-ground, or cemetery, and execution for costs of the appeal shall issue in favor of the appellant against the town or city in which the same was situated. But if the order is sustained, execution shall issue for double costs against the appellant in favor of the board of health for the use of the town or city.

Penalty for violation of this chapter. Ibid. § 11.

83. For every interment in violation of section seventy-seven in a town or city in which the notice prescribed in section seventy-nine has been given, the owner of the land so used shall forfeit not less than twenty nor more than one hundred dollars.

For injuring tombs, &c. Ibid. § 12. 2 Allen, 512. 7 Allen, 299.

84. Whoever wrongfully destroys, impairs, injures, or removes a tomb, grave stone, building, fence, railing, or other thing lawfully erected in or around a place of burial or cemetery, or a tree, shrub, or plan situate within its limits, or wrongfully injures a walk or path therein, or places rubbish or offensive matter within a place of burial or cemetery, or commit any nuisance therein, or in any way desecrates or disfigures the same, shall forfeit for every such offence not less than five nor more than one hundred dollars. Upon the trial of a prosecution for the recovery of such penalty, use and occupation for the purposes of burial shall be deemed sufficient evidence of title.

Proof of title. Ibid.

Injuring or defacing tombs, memorials of the dead, &c. G. S. 165, § 39.

85. Whoever wilfully destroys, mutilates, defaces, injures, or removes any tomb, monument, gravestone, or other structure or thing placed or designed for a memorial

the dead, or any fence, railing, curb, or other thing intended for the protection or ornament of any tomb, monument, gravestone, or other structure, before mentioned, or of any enclosure for the burial of the dead, or wilfully destroys, mutilates, removes, cuts, breaks, or injures any tree, shrub, or plant placed or being within any such enclosure, or wantonly or maliciously disturbs the contents of a tomb or grave, shall be punished by fine not exceeding five hundred dollars nor less than ten dollars, or by imprisonment in the jail not exceeding one year.

Making roads, canals, &c., through burial-grounds. Ibid. § 40.

86. Whoever lays out, opens, or makes a highway or townway, or constructs a railroad, turnpike, or canal, or any other thing in the nature of a public easement, over, through, in, or upon any part of such enclosure, being the property of a city, town, parish, religious society, or of private proprietors, used or appropriated for the burial of the dead, unless an authority for that purpose is specially granted by law, or unless the consent of such city, town, parish, religious society, or proprietors respectively is first obtained, shall be punished by fine not exceeding two thousand dollars, or by imprisonment in the jail not exceeding one year.

G. S. 165, § 40.

OFFENCES AGAINST THE PUBLIC HEALTH.

Selling corrupt or unwholesome provisions without notice.

87. Whoever knowingly sells any kind of diseased, corrupted, or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer,

G. S. 166, § 12 Cush. 499.

shall be punished by imprisonment in th jail not exceeding six months, or by fine no exceeding two hundred dollars.

Young calves not to be killed for sale, or sold.

1866, c. 253, § 1. 67 Mass. 567.

88. Whoever kills or causes to be killed for the purpose of sale, any calf less tha four weeks old; or knowingly sells, or ha in his possession with intent to sell, th meat of any calf killed when less than fou weeks old, — shall be punished by imprison ment in the jail or house of correction no exceeding six months; or by fine not exceed ing two hundred dollars; or by both suc imprisonment and fine; and all such mea exposed for sale, or kept with intent to mak sale thereof, may be seized and destroye by any board of health, or health officer, o by any sheriff, deputy sheriff, constable, o police officer.*

Search warrant for such meat may be issued. Ibid. § 2.

89. When complaint is made on oath t any police court or magistrate authorized t issue warrants in criminal cases, that th complainant believes that any meat such a is described in the first section is kept o concealed in any particular house or plac with the intent to sell, or offer the same fo sale, the court or magistrate, if satisfie that there is reasonable cause for such be lief, shall issue a warrant to search for suc meat; and all such warrants shall be direc ed and executed in the manner provided i the third section of the one hundred an seventieth chapter of the General Statute

Adulterating food.

90. Whoever fraudulently adulterate

*See also Faneuil Hall Market, *ante*.

for the purpose of sale, bread or any other substance intended for food, with any substance injurious to health, shall be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding three hundred dollars; and the articles so adulterated shall be forfeited and destroyed under the direction of the court. G. S. 166, § 3.

91. Whoever adulterates, for the purpose of sale, any liquor used or intended for drink, with *cocculus indicus*, vitriol, grains of paradise, opium, alum, capsicum, copperas, laurel water, log-wood, Brazil wood, cochineal, sugar of lead, or any other substance which is poisonous or injurious to health; and whoever knowingly sells any such liquor so adulterated, shall be punished by imprisonment in the State prison not exceeding three years; and the articles so adulterated shall be forfeited. Adulteration of liquor used for drink, with *cocculus indicus*, &c. Ibid. § 4. G. S. 166, § 4.

92. Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine, or sells any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding four hundred dollars; and such adulterated drugs and medicines shall be forfeited and destroyed under the direction of the court. Adulteration of drugs and medicines. Ibid. § 5.

93. Whoever wilfully or maliciously defiles, corrupts, or makes impure any spring or other source of water or reservoir, or destroys or injures any pipe, conductor of water, or other property pertaining to an Wilfully corrupting springs, &c., or injuring aqueduct. Ibid. § 6.

See Water, *post*, § 19.

aqueduct, or aids or abets in any such trespass, shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the jail not exceeding one year.

Persons selling arsenic, &c, to keep record, &c. Purchasers who give false name, &c. Ibid. § 7.

94. If an apothecary or other person sells any arsenic, strychnine, corrosive sublimate or prussic acid without the written prescription of a physician, he shall keep a record of the date of such sale, the article, the amount thereof sold, and the person or persons to whom delivered; and for each neglect he shall forfeit a sum not exceeding fifty dollars. Whoever purchases deadly poisons, as aforesaid, and gives a false or fictitious name to the apothecary or other person, shall be punished by fine not exceeding fifty dollars.

Damaged fish not to be sold or exported, &c. Penalty. G. S. 49, § 47.

95. Whoever sells within this State or exports therefrom tainted or damaged fish, unless with the intent that the same shall be used for some other purpose than as food, shall forfeit the sum of ten dollars for every hundred pounds of such fish, and in the same proportion for any other quantity; and upon a trial in such case the burden of proof shall be upon the defendant to show for what purpose such fish was so exported or sold.

ORDINANCE.*

The board of aldermen shall constitute the board of health. May 21, 1863.

SECTION 1. The board of aldermen shall constitute the board of health of the city,

* An ordinance relating to the public health, passed May 21, 1863. Amended July 8, 1864, June 1, 1866,

for all purposes, and shall exercise all the powers vested in, and shall perform all the duties prescribed to, the city council as a board of health;* subject only to any limi-

July 28, 1866, September 28, 1867, October 22, 1867, October 6, 1868, October 15, 1869.

This ordinance was published two successive weeks in the Boston *Daily Advertiser* of June 17 and 24, and in the Boston *Post* of June 18 and 25, 1863, as required by sect. 79 of the Statutes, *ante*.

* By the seventeenth section of the act of 1821, establishing the city of Boston, and confirmed by the act of 1854, all the power and authority by law vested in the board of health for the town of Boston, at the time of the passage of the said act, relative to the quarantine of vessels, and relative to every other subject whatsoever, was transferred to and vested in the city council, to be carried into execution by the appointment of health commissioners, or in such other manner as the health, cleanliness, comfort and order of the said city might in their judgment require, subject to such alterations as the legislature might from time to time adopt. And the supreme judicial court, in the case of *Baker* vs. *City of Boston*, 12 Pick. 184, held that it was not only the right but the duty of the city government of Boston, so far as they may be able, to remove every nuisance which may endanger the health of the citizens. And they have necessarily the power of deciding in what manner this shall be done, and their decision is conclusive, unless they transcend the powers conferred on them by the city charter. Police regulations to direct the use of private property so as to prevent its being pernicious to the citizens at large, are not void, although they may in some measure interfere with private rights without providing for compensation. The property of a private individual may be appropriated to public use in connection with the measures of municipal regulation, and in such case compensation must be provided for, or the appropriation will be unconstitutional and void. *Baker* vs. *City of Boston*, 12 Pick. 184. See stat. 1821, c. 110, § 17; 1854, c. 448, § 40.

tations and restrictions contained in the ordinances, regulations, and orders of the city council.

The mayor shall protect the public health, and enforce the laws and ordinances. Ibid.

SECT. 2. It shall be the duty of the mayor to be vigilant and active in protecting the public health; to see that the laws and ordinances in relation to the same are enforced, to communicate his views to the board of aldermen or the city council from time to time as he may deem expedient; and he shall have power to call upon the police and the various city officers to aid him in the performance of these duties.

SUPERINTENDENT OF HEALTH.

Superintendent of health to be elected May 21, 1863.

SECT. 3. There shall be elected annually, on the first Monday of February, or within sixty days thereafter, by concurrent vote of the two branches of the city council, a superintendent of the health department, who shall hold his office for one year from the first Monday of April in the year in which he is elected, and until a successor is elected and qualified, or he is removed. He may be removed at the pleasure of the city council, and a vacancy may be filled at any time for the unexpired term. He shall receive such compensation as the said council may from time to time determine.

Superintendent may appoint an assistant. Ibid.

SECT. 4. The said superintendent is authorized to appoint an assistant, to act under his control and direction, who shall be approved by the board of aldermen, and who shall receive such compensation as the city council may from time to time deter-

mine. The said assistant may be removed at any time by the said superintendent or the board of aldermen.

To execute all laws and ordinances on subject of health, May 21, 1863. Sept 28, 1867.

SECT. 5. The execution of the laws and ordinances relating to the subject of health shall be under the charge of the said superintendent and his assistant; and it shall be their duty, and each of them shall have power, to enforce all laws, ordinances, regulations, and orders relating to causes of sickness, nuisances, and sources of filth existing within the city, except as is otherwise provided in the ordinances of the city, subject always to the direction, authority, and control of the board of aldermen and of the board of health for the time being; and they shall perform any other services that may be required of them by the said boards, or either of them. And the superintendent may, under the direction of the board of health or any committee thereof, abate any nuisance without an order from the board of aldermen therefor, when the person whose duty it is to abate the same has been legally notified to abate it and has neglected so to do, after the time fixed therefor in the notice served on him, and when in the judgment of said superintendent the exigency for the immediate abatement thereof is so great that delay for the action of the board of aldermen would be dangerous to the public health.

May 21, 1863. Sept. 28, 1867.

To give bond. May 21, 1863.

SECT. 6. The said superintendent of the health department shall give bond with one or more sureties, to the approbation of the

board of aldermen, with condition that he shall faithfully perform all the duties of his office, and account for all moneys entrusted to him, and that he will not, directly or indirectly for himself or others, or by others in trust for him, or on his account, have any interest or concern in any purchase, lease, contract, or agreement made in pursuance of this ordinance.

Duties of superintendent. May 21, 1863. Oct. 15, 1869. May 21, 1863. Oct. 15, 1869.

SECT. 7. The said superintendent shall attend at his office a portion of each day. He shall keep, or cause to be kept, a record of all his proceedings, and a set of books, in which shall be entered, under appropriate heads, the receipts and expenditures in his department, with the names of all persons who have furnished materials, and of all workmen, and the amount paid to each individual; and he shall make a quarterly report thereof to the city council. On or before the tenth day of January, annually, he shall make a report to the city council containing a general statement of the expenses of his department during the preceding year, the amount expended in each branch thereof, and such other information as he may consider desirable, together with a schedule of the property under his charge belonging to the city, and the value thereof.

To make report to city council.

To report an estimate to auditor of the wants of his department. May 21, 1863.

SECT. 8. He shall report annually, on or before the fifteenth day of February, to the auditor of accounts, a detailed estimate of the wants of his department for the next financial year.

SECT. 9. He shall have, under the direction and control of the board of aldermen, the care and superintendence of the city teams and stables, and shall make all necessary arrangements for cleaning the streets, disposing of manure, and removing house dirt and house offal. He shall, from time to time, furnish to the superintendent of streets such carts and horses as he may need, and they shall be charged to the department of paving and repairs of streets.

To have charge of city teams and stables. Ibid.

To furniah teams for streets. Ibid.

SECT. 10. Whenever the superintendent of health sells any articles or materials belonging to the city, or does, or causes to be done, work for any individual, he shall enter in books to be kept for that purpose all such sales and work done, with the price thereof, and shall forthwith make out bills for the same and deliver them to the city treasurer for collection, and the said treasurer shall forthwith demand payment of the said bills, and in case any bills or dues under this ordinance remain unpaid at the expiration of thirty days after demand for payment as aforesaid, the said treasurer shall deliver the same to the city solicitor for legal proceedings; but if the mayor is satisfied that the interests of the city require it, he may cause legal proceedings to be had at any time.

To make and deliver all bills for materials sold and work to the city treasurer for collection. May 21, 1863. Oct. 15, 1869.

SECT. 11. The pay-rolls of the laborers employed under the direction of the superintendent of health shall be made up and certified by him, and upon being duly allowed and audited shall be paid by the city

To make up pay-rolls of laborers. May 21, 1863.

treasurer, at such times and places as he may appoint, and he may employ a clerk for that purpose.

INTERMENT OF THE DEAD.

Interment of dead shall be under superintendence of city registrar. Ibid. 5 Cush. 408.

SECT. 12. The interment of the dead shall be under the superintendence of the city registrar, who shall carry into execution all laws, ordinances, regulations and orders, relating to the interment of the dead, subject always to the direction, authority, and control of the board of aldermen.

He shall have charge of burying-grounds. May 21, 1863.

SECT. 13. The city registrar shall have the care and custody of all the burying-grounds in the city, and shall keep the same in good repair and secured from trespassers, and prevent any and all nuisances therein.

May give licenses for burials, &c. Ibid.

SECT. 14. He may give licenses for burials, and for the removal of dead bodies from the city, and point out the place, depth, width, and range of all graves in the several burying-grounds, and shall forbid graves to be dug within those limits in such grounds in which, in his judgment, it would be dangerous to the public health to allow graves.

Dead bodies shall not be buried without license. Ibid. 16 Pick, 121.

SECT. 15. No person shall bury or inter, or cause to be buried or interred, any dead body, in violation of any direction or order of the said registrar, given in accordance with the preceding section, or without having first obtained a license so to do from the city registrar.

Graves shall

SECT. 16. No person shall inter, or cause to be interred, any dead body in a grave less

than three feet deep from the surface of the ground surrounding the grave to the top of the coffin. be three feet deep. Ibid.

SECT. 17. On the first Monday of February, annually, or within sixty days thereafter, the mayor, by and with the advice and consent of the aldermen, shall appoint for a period of one year, from the first Monday of April in the year in which they may be appointed, such a number of funeral undertakers as he may deem expedient, and they shall be responsible for the decent, orderly, and faithful management of the funerals undertaken by them, and for a strict compliance with the ordinances of the city in this behalf. Each undertaker may employ porters, of a discreet and sober character, to assist him, and he shall be accountable for their conduct; said undertakers and porters may be removed at the pleasure of the mayor. No person not appointed as aforesaid shall open any tomb or grave for the purpose of depositing or removing a dead body without the permission of the city registrar. Funeral undertakers to be appointed, May 21, 1863. Oct. 15, 1869, 13 Allen, 564. May 21, 1863. Oct. 15, 1869. Porters. No other person shall open any tomb, &c.,

SECT. 18. No person shall bury or inter, or cause to be buried or interred, any dead body at any other time of the day than between sunrising and sunsetting, except when otherwise permitted by the city registrar. No bell shall be tolled in the city of Boston, at any funeral, without a special permit therefor from the mayor, who is hereby authorized to suspend the usual ringing of any bell, when the illness of any Time for burials. May 21, 1863. Tolling of bells forbidden. Ibid.

person in the neighborhood thereof may require such suspension. The corpse of every person of ten years of age and upward shall be conveyed to the grave or tomb in a funeral car, drawn by not more than two horses; *provided, however*, that, on extraordinary occasions, permission may be obtained from the mayor, on application for that purpose, to dispense with any of the provisions of this section.

Funeral car to be employed. Ibid.

No grave to be dug without permision. May 21, 1863. Oct. 15, 1869.

SECT. 19. No grave shall be opened or dug in any of the burying-grounds in this city, unless by permission of the board of aldermen or the city registrar.

No dead bodies to be removed without license. May 21, 1863.

SECT. 20. No conductor on any railroad, no master of any steamboat or other vessel, no hack driver, or other person, shall remove, or cause to be removed, from the city, any dead body, without the written license of the city registrar.

No dead body to be disturbed without license. Ibid.

SECT. 21. No person shall remove any dead body, or the remains of any such body from any of the graves or tombs in this city, or shall disturb any dead body in any tomb or grave without the license of the city registrar.

No grave, &c., to be opened, except, &c., without permission. Ibid.

SECT. 22. No grave or tomb shall be opened from the first day of June to the first day of October, except for the purpose of interring the dead, without the special permission of the board of aldermen or the city registrar.

Fees of undertakers. Oct, 22, 1867. Oct. 15, 1869.

SECT. 23. For services rendered in accordance with the provisions of this ordinance, undertakers shall be entitled to re-

ceive the following fees, and no more, to wit: For digging a grave eight feet deep and covering the same, three dollars and fifty cents; for digging a grave six feet six inches deep, two dollars; for digging a grave five feet deep, one dollar and seventy-five cents; for digging a grave four feet deep, one dollar and fifty cents; for digging a grave three feet six inches deep, one dollar and twenty-five cents; and when the ground is frozen, the charge for digging graves may be augmented at the discretion of the city registrar. For opening and closing a tomb, one dollar and fifty cents; for placing a corpse in a coffin, when requested, and removing the same down stairs, one dollar and fifty cents; for carrying a corpse to the tomb or grave, including the assistance of funeral porters and one horse, five dollars; for carrying a corpse to the tomb or grave, including the assistance of funeral porters and two horses, seven dollars and fifty cents; for carrying a corpse out of the city, there shall be allowed fifty cents in addition for each mile beyond the limits of the city. When a corpse is carried into a church for a funeral service, the undertaker may make an additional charge of two dollars. For lighting a cemetery, one dollar. For the burial of children under ten years of age, the fees shall be as follows: For services at the house, one dollar; for carrying the corpse to the carriage, and from the carriage to the place of depo- Oct. 22, 1867. Oct. 15, 1869.

sit, and interring the same, one dollar; for the use of a pall, twenty-five cents.

The fees for disinterring and removing bodies from graves or tombs shall be in accordance with the amount and nature of the services rendered.

Board of aldermen may make regulations. May 21, 1863.

SECT. 24. The board of aldermen are authorized to make and adopt any regulations in relation to the interment of the dead which they may deem expedient, not inconsistent with the foregoing provisions, and subject to the approval of the mayor.

CITY PHYSICIAN.

City physician to be elected; tenure of office. Ibid.

SECT. 25. There shall be elected annually, on the first Monday of February, or within sixty days thereafter, by concurrent vote of the two branches of the city council, a city physician, who shall hold his office for one year from the first Monday of April, in the year in which he is elected, and until a successor is elected or he is removed. He may be removed at the pleasure of the city council, and a vacancy may be filled at any time for the unexpired term. He shall receive such compensation as the said council may from time to time determine.

Consulting physicians to be elected. Ibid.

SECT. 26. On the first Monday in February, annually, or within sixty days thereafter, there shall be elected, by concurrent vote of the city council, five consulting physicians, whose tenure of office shall be the same as that of the city physician, and

Their duties. Ibid.

whose duty it shall be, in case of an alarm of any contagious or other dangerous

disease occurring in the city or neighborhood, to give to the mayor, or either board of the city council, all such professional advice and information as they may request, with a view to the prevention of such disease, and, at all convenient times, when requested, to aid and assist them with their counsel and advice in all matters that relate to the preservation of the health of the inhabitants.

City physician shall examine into nuisances, &c. May 21, 1863.

SECT. 27. The city physician, when notified thereof, shall examine into all nuisances, sources of filth, and causes of sickness which may be on board of any vessel at any wharf within the harbor of Boston, or which may have been landed from any vessel on any wharf, or other place; and, under the direction of the board of aldermen, shall cause the same to be removed or destroyed.

City physician's office. Ibid.

SECT. 28. There shall be provided by the city council a suitable office for the city physician, free of expense to him; at which place he shall attend at such times as the board of aldermen may direct; and he shall vaccinate, without charge, any inhabitant of Boston, not previously vaccinated, who may apply for that purpose; he shall also give certificates of vaccination to such children as have been vaccinated, and require such certificates for admission to the public schools; *provided*, that no person shall be entitled to the benefits of this section who shall wilfully neglect or refuse to return to the office of the city physician,

He shall vaccinate inhabitants who apply, &c. Ibid.

Proviso. Ibid.

when requested by him, for the purpose of enabling him to ascertain the effect of the vaccination, or to renew the necessary supply of virus for the use of said office.

To keep and supply vaccine virus. May, 21, 1863.

SECT. 29. He shall always have on hand, as far as is practicable, a sufficient quantity of vaccine virus, and he shall supply the physicians of the city institutions, and the dispensary, with the same, without expense to them.

To examine cases of disease when called upon by mayor and aldermen, &c. Ibid.

SECT. 30. He shall examine all cases of disease within the city, and inquire into all sources of danger to the public health whenever called upon by the mayor, the board of aldermen, the board of health for the time being, or the overseers of the poor, and shall give his professional services and advice therein, and at all times when required by either of said persons or boards.

To attend at jail, &c. Ibid.

SECT. 31. The city physician shall attend upon all cases of disease, and perform all the professional services that may be required in the jail, city prison under the court house, in the city temporary home, and in the several police stations in the city, except those at East and South Boston. He shall, when requested by the mayor, board of aldermen, or chief of police, examine all candidates for appointment to the police force; examine the condition of all officers absent from duty from disability: also all cases of accidental injury whereby the city may become liable; and shall report to the city registrar, when requested

by him, the causes of death of all persons dying with no physician in attendance.

To keep record of cases of small-pox, &c. May 21, 1863.

SECT. 32. He shall keep a record of all cases of small-pox or other malignant diseases, attended by him under this ordinance, and shall made such reports thereof to the board of aldermen as they may from time to time direct.

To keep record of doings of his office. Ibid.

SECT. 33. He shall also keep a correct record of all the doings of his office, and shall make a regular return thereof to the city council as often as once in three months.

Harbor master shall report to city physician vessels having hides, &c. May 21, 1863. July 28, 1866.

SECT. 34. Whenever any vessel arrives in the harbor of Boston, between the first day of April and the fifteenth day of November in any year, having on board any hides, hide cuttings, skins, rags, or fruit, the harbor police shall give immediate notice thereof to the city physician.

Master of such vessel shall give notice to harbor master or city physician. Ibid.

SECT. 35. Every master and consignee of any vessel, arriving within the time fixed in the preceding section, and containing the articles therein named, or any of them, shall give immediate notice of the arrival of such vessel to the harbor master or the city physician.

QUARANTINE.

Quarantine grounds. June 1, 1866.

SECT. 36. The quarantine grounds of the city of Boston shall consist of Deer Island and Gallop's Island, in Boston harbor; and said islands are hereby made and declared to be the places of quarantine for the port of Boston.

SECT. 37. There shall be elected annually,

Port physician to be chosen. May 21, 1863.

on the first Monday in February, or within sixty days thereafter, and whenever a vacancy occurs, by concurrent vote of the two branches of the city council, a port physician, who shall hold his office for one year from the first Monday of April in the year in which he is elected, and until a successor is elected or he is removed. He may be removed at the pleasure of the city council, and a vacancy may be filled at any time for the unexpired term. He shall receive such compensation as the said council may from time to time determine.

To reside at Deer Island and superintend quarantine hospital, &c. Ibid.

SECT. 38. The port physician shall reside at Deer Island. He shall be superintendent and physician of the quarantine hospital at Deer Island, and physician of all the city establishments which are, or may be, located upon said island, and which may not be otherwise provided for by the city council. He shall also perform all such service as may be required of him by the Mayor or the board of aldermen, in relation to quarantine.

To keep record of cases of small pox, &c, Ibid.

SECT. 39. The port physician shall keep a record of all cases of small-pox and other malignant diseases, attended by him under this ordinance, and shall make such reports thereof to the mayor and to the board of aldermen as they may from time to time direct.

To keep record of his other doings. Ibid.

SECT. 40. The port physician shall also keep a correct record of his other doings, and shall make a regular return thereof to the city council as often as once in three months.

SECT. 41. The port physician may, at any time, with the concurrence of the board of health, appoint an assistant port physician, to hold his office so long as the board of health shall determine; and such port physician shall receive such compensation for his services as may be appropriated therefor by the city council. Assistant port physician. June 1, 1866.

VAULTS AND DRAINS.

SECT. 42. The owner, agent, occupant, or other person having the care of any tenement used as a dwelling-house, or of any other building with which there is a privy connected and used, shall furnish the same with a sufficient drain under ground to carry off the waste water, and also with a suitable privy, the vault of which shall be sunk under ground and built in the manner hereinafter prescribed, and of a capacity proportionate to the number of inhabitants of such tenement, or of those having occasion to use such privy. Any such owner, agent, occupant, or other persons who shall neglect to comply with the provisions of this section, shall be liable to a penalty of not less than five dollars nor more than twenty dollars, for each and every week during which such offence shall continue. Owner, &c., of dwelling-houses, &c., shall furnish them with suitable drains and privies. May 21, 1863. Oct. 15, 1869. Penalty. Ibid.

SECT. 43. All vaults and privies shall be made of brick and cement, and contain at least eighty cubic feet, and the inside of the same shall be at least two feet distant from the line of every adjoining lot, unless the owner of said adjoining lot may otherwise Vaults, how to be built, July 28, 1866.

agree and consent; and at the same distance from every street, lane, alley, court, square, or public place, or public or private passageway; and they shall be so constructed as to be conveniently approached, opened and cleaned. Every vault shall be made tight, so that the contents thereof cannot escape therefrom, except as is provided in section forty-four. All preparations for cleaning a vault or privy shall be made by the person entering the same; and, in case of neglect to make such preparation, it shall be made by the city, and the expense thereof be charged to such person.

Vaults may be connected with common sewers by permission of superintendent of sewers. May 21, 1863.

SECT. 44. The superintendent of sewers, under the direction of the board of aldermen, is authorized to permit, under such restrictions, and on the payment of such sum, not exceeding thirty dollars, as they may deem expedient, the construction of sufficient passageways or conduits under ground for the purpose of conveying the contents of any vault into any common sewer or drain.

Proceedings where a suitable privy, vault, and drain is not constructed. Ibid.

SECT. 45. If the board of aldermen shall at any time be, satisfied that any tenement, used as a dwelling-house, or any such other building as is mentioned in the forty-second section, is not provided with a suitable privy, vault, and drain, or either of them as aforesaid, they shall give notice in writing to the owner, agent, occupant, or other person having the care thereof, or in case neither the owner, agent, or person having the care thereof is an inhabitant of the city

public notice in two newspapers printed in Boston, requiring such owner, agent, occupant, or other person, within such time as they may appoint, to cause a proper and sufficient privy, vault, and drain, or either of them, to be constructed for such tenement or other building; and in case of neglect or refusal to obey such notice the board of aldermen shall cause such privy, vault, and drain to be made for such tenement or other building, at the expense of such owner, agent, occupant, or other person; and in case any such drain, vault, or privy is constructed as aforesaid, for the use of more than one house, then the owner, agent, occupant, or other person having the charge of each of such houses, shall be liable to pay a proportional part of such expense.

Offensive vaults, drains, &c., to be repaired and cleansed. May 21, 1863. Sept. 21, 1867.

SECT. 46. Whenever any vault, privy, or drain becomes offensive or obstructed, the same shall be cleansed and made free, and the owner, agent, occupant, or other person having charge of the land in which any vault, privy, or drain is situated, the state or condition of which is in violation of the provisions of this ordinance, shall remove, cleanse, alter, amend, or repair the same within such reasonable time, after notice in writing to that effect given by the superintendent of health or his assistant, as shall be expressed in such notice. In case of neglect or refusal so to do, the superintendent of health may, with the advice and consent of the board of health or any com-

mittee thereof, cause the same to be removed, altered, amended, or repaired as he may deem expedient, at the expense of the owner, agent, occupant, or other person as aforesaid, and such owner, occupant, or other person shall also be liable to such penalties as are prescribed by law or ordinance.

Regulations as to cleansing vaults and privies. May 21, 1863. Oct. 6, 1868.

SECT. 47. No cesspool, vault, or privy shall be emptied without a permit from the superintendent of health or his assistant; nor in any other mode, or at any other time, than he may direct and appoint, subject to such regulations and contracts as the board of aldermen from time to time shall make on the subject and always at the expense of the owner, agent, occupant, or other person having charge of the tenement in which such vault is situated.

Applications for cleansing vaults. May 21, 1863.

SECT. 48. Books, in which shall be entered all applications for opening and cleansing vaults, shall be kept in convenient places under the charge of the superintendent of health; such applications shall specify the number of loads, if less than the whole contents of the vault, to be removed; and they shall receive attention in the several wards in the order in which they are made, so far as practicable. The board of aldermen shall from time to time determine the sum to be paid by persons making such applications.* And in order

What sums shall be paid therefor. May 21, 1863. July 8, 1864. Sept. 28, 1867.

* By an order of the mayor and aldermen, passed July 19, 1864, the prices to be paid for the removal of night-soil are as follows: Applicants between October

to ascertain the proper sum to fix as a minimum price, for the removal of the contents of the vaults, as hereinbefore provided, the committee on health shall advertise for proposals for such service, for a term not exceeding three years; and shall report to the board of aldermen a contract or contracts therefor for their approval.

Further regulations. May 21, 1863.

SECT. 49. No vault shall be opened between the first day of June and the fifteenth day of September, in each year, unless the superintendent of health, or his assistant, shall be satisfied of the necessity of the same for the health or comfort of the inhabitants. In such case no more of the contents shall be taken away, than they, or either of them, shall deem to be absolutely necessary for present safety and relief, and such precautions shall be used relative to the prevention of any offensive effluvia, as they, or either of them, may direct, at the expense of the owner, agent, occupant, or other person having charge of the premises.

Waste water to be carried off in drains. Ibid.

SECT. 50. All waste water shall be conveyed through sufficient drains, under ground, to a common sewer, or to such reservoir, sunk under ground, as may be approved by the superintendent of sewers. And no person shall suffer any waste or stagnant water to remain in any cellar, or upon any lot or vacant ground, by him owned or occupied.

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1 and March 1, shall pay at the rate of $4 per load of 80 cubic feet; between March 1 and June 1, $5 per load; between June 1 and October 1, $6 per load.

Board of aldermen may remove persons from tenements where too numerous or unprovided with vaults, &c. May 21, 1863.

SECT. 51. Whenever, upon due examination, it appears to the board of aldermen, that the number of persons occupying any tenement or building in the city is so great as to be the cause of nuisance and sickness, and the source of filth; or that any tenements * or buildings are not furnished with vaults constructed according to the provisions of this ordinance, and sufficient privies and drains under ground for waste water, they may, thereupon, issue their notice, in writing, to such persons, or any of them, requiring them to remove from and quit such tenement or building within such time as the said board shall deem reasonable. And if the person or persons so notified, or any of them, shall neglect or refuse to remove from and quit such tenement or building within the time mentioned in such notice, the board of aldermen are hereby authorized and empowered, thereupon, forcibly to remove them; and such person or persons shall be liable to a penalty for such neglect or refusal, and for the expense of their removal.

HOUSE OFFAL, ASHES, ETC.

House offal; how to be kept.

SECT. 52. All house offal, whether consisting of animal or vegetable substances, shall be placed in suitable vessels, and no ashes or other refuse matter shall be mingled therewith; and the same shall be kept in some convenient place to be taken away by

* See Chap. 281, Acts of 1861.

the city scavengers, which shall be done as often as twice in each week. May 21, 1863.

SECT. 53. Ashes kept for removal by the health department shall not be mixed with other substances, but shall be kept separate and apart, in a convenient locality, in suitable iron or other metallic vessels, and in such a manner as to prevent the spread of fire. Ashes shall be kept in metallic vessels, &c, Oct. 15, 1869.

SECT. 54. No person shall remove, or carry in, or through, any of the streets, squares, courts, lanes, avenues, places, or alleys within the city of Boston any house dirt or house offal, animal or vegetable, grease or bones, or any refuse substances from any of the dwelling-houses or other places in the city, unless such person so removing or carrying the same, and the mode in which the same may be removed or carried, shall have been expressly licensed by the board of aldermen, or by the permit of the superintendent of health or his assistant, upon such terms and conditions as they may deem the health and interest of the city require. But all the ashes and cinders made from steam engines, or steam boilers, forges or furnaces, used for mechanical purposes, shall be removed at the expense of the parties occupying the building, or the owners thereof, and at such times, and in such manner as the superintendent of health may direct. Manner of its removal. Not to be removed without license. May 21, 1863. Oct. 22, 1867. Feb. 11, 1870. 6 Pick. 187.

SECT. 55. No person, without the license of the board of aldermen, shall throw into, or leave in, or upon, any street, court, No filth shall be thrown out into streets, &c.

May 21, 1863. square, lane, alley, wharf, public square, public enclosure, vacant lot, or any pond or body of water within the limits of the city, any dead animal, dirt, sawdust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster, clam or lobster shells, waste water, rubbish or filth of any kind, or any refuse animal or vegetable matter whatsoever. Nor shall any person throw into, or leave in, or upon, any dock, flats, or tide water within the jurisdiction of the city, any dead animal or other foul or offensive matter, except as provided in the fifty-seventh section of this ordinance.

Penalty. Ibid. SECT. 56. If any of the substances mentioned in the preceding section shall be thrown or carried from any house, warehouse, shop, cellar, yard, or other place, or left in any of the places specified in the preceding section, the owner and occupant of such house, warehouse, shop, cellar, yard, or other place as aforesaid, and the person who actually threw, carried, or left the same, or who caused the same to be thrown, carried or left, shall severally be held liable for such violation of this ordinance; and all such substances shall be removed from the place where they have been so thrown or left, as aforesaid, by such owner or occupant, or other person, within two hours after personal notice in writing to that effect, given by the superintendent of health, or his assistant; or such removal shall be made under the direction of either of the officers

above named, and the expenses thereof borne by such owner or occupant.

Filth, &c., may be removed by order of board of aldermen, May 21, 1863.

SECT. 57. All dirt, sawdust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster, clam, or lobster shells, waste water, or any animal or vegetable substance, rubbish, or filth of any kind, in any house, warehouse, or other building, cellar, yard, unaccepted street, alley-way, or other place which the board of aldermen may deem injurious to the health of the city, shall be removed by the owner or occupant of such house, warehouse, other building, cellar, yard, unaccepted street, alley-way, or other place where the same may be found, within twenty-four hours, or such other time as the board of aldermen may deem reasonable, after notice in writing to that effect, served personally upon the owner or occupant, or their authorized agent, by any person competent to serve a notice in a civil suit, or left at the owner, occupant, or agent's last and usual place of abode, if the same be known and be within the State; or such removal shall be made under the direction of the board of aldermen, and the expense thereof borne by such owner or occupant, who shall also be liable to a penalty.

Sale and keeping of fish regulated. Ibid.

SECT. 58. No person shall bring into the city for sale, or shall sell, or offer for sale, any halibut, cod, haddock, or mackerel, until the same have been cleansed of their entrails and refuse parts, and such entrails and refuse parts shall be thrown overboard, below low-water mark; and shall never be

May 21, 1863. kept beyond the flowing of the tide next after such fish are so cleansed; and until so thrown overboard they shall be kept, in a safe manner, on board the vessels or boats in which the fish were brought. And no person shall sell, or deliver from any stall, fish box, cart, or other place, any fish of any kind except flounders, smelts and other small fish, salmon and shad, until the same have been cleansed of their entrails and refuse parts; and such entrails and refuse parts shall be kept in some tight vessel, and shall be thrown into the sea below low-water mark within twenty-four hours after the fish are so cleansed. And no person shall sell, or offer for sale, in the city, fish of any kind, unless the same be kept in covered stalls, fish boxes, or other houses, or covered carts, which shall always be kept clean and in good order, and well secured from the rays of the sun.

Fish, &c., not to be sold, &c., in certain streets, except, &c.

SECT. 59. No person shall sell or offer for sale, in the street, any fish, lobsters, oysters, or shell-fish of any kind in Market square, Merchants' row, South Market street, North Market street, or the street running from Long wharf to Clinton street, or in that part of Washington street between Hayward place and Kneeland street, those parts of Kneeland, Beach, and Essex streets between Harrison avenue and Washington street, nor in those parts of Boylston and Eliot streets between Tremont and Washington streets, except by permission of the

board of aldermen, and on such conditions as they shall order.

Vegetables to be divested of parts not used for food. May 21, 1863.

SECT. 60. No person shall bring into the city or have in his possession for sale, or sell or offer for sale any vegetables whatever (excepting green peas and beans in the pods, and green corn in the inner husks), which have not previously been divested of such parts or appendages as are not commonly used for food; and no person shall have such parts or appendages in his possession in any public or private market, or in any store, shop, or other place, or in any cart or vehicle in said city used or occupied for the sale of vegetables or other articles of food.

Swine and goats not to be kept without license. May 21, 1863. Oct. 6, 1868.

SECT. 61. No fowls, swine or goats shall be kept within the limits of the city without the license of the board of aldermen, and only in such place and manner as they may direct.

Horses and carriages not to be washed in streets, &c. May 21, 1869. Oct. 15, 1869.

SECT. 62. The owners and occupants of livery and other stables within the city shall not wash or clean their carriages or horses, or cause them to be washed or cleaned in the streets or public ways, or otherwise encumber the same; they shall keep their stables and stable yards clean, and shall not permit more than three cords of manure to accumulate and remain in or near the same at any one time between the first day of May and the first day of November; and no manure shall be allowed to accumulate or remain uncovered outside of the stable building. The said owners and occupants

shall not, between the first day of November, remove any manure, or cause, or suffer the same to be removed, except between the hour of twelve at night and two hours after sunrise.

Damaged grain, meal, &c., not to be landed without a permit. May 21, 1863.

SECT. 63. No person shall bring into the city, by land or water, or land on any wharf or other place any decayed or damaged grain, rice, coffee, fruit, potatoes, or other vegetable product, or any tainted or damaged meat or fish, without a permit therefor from, and then in such a manner only as directed by, the board of aldermen, or the superintendent or his assistant.

Penalty for offence against this ordinance. Ibid.

SECT. 64. Every person offending against any of the provisions of this ordinance, for which no penalty is prescribed by the laws of the commonwealth, shall forfeit and pay a sum not less than five dollars, nor more than fifty dollars, for each offence.

QUARANTINE FEES.*

Quarantine fees. June 29, 1868.

Ordered: That from and after July 1, 1868, the fees to be paid to the port physician by vessels requiring to be examined at quarantine, shall be as follows, viz: For steamers, ships and barques, eight dollars each; for brigs, schooners, sloops and other vessels, five dollars each, which sums shall be paid by said port physician into the city treasury.

* Order of the board of aldermen, passed June 29, 1868.

HEALTH.

1. Under Gen. Sts. c. 26, § 52, the selectmen of a town, acting as a board of health, may by a general order forbid the exercise of an offensive trade or employment therein, without first giving notice to those who at the time are engaged in carrying on the same. *Belcher* v. *Farrar*, 8 Allen, 325 (1864).

2. The party erecting or continuing a public nuisance may be prosecuted by indictment; and a part of the judgment may be, that it be prostrated and removed. SHAW, C. J., in *Eames* v. *New England Worsted Co.* 11 Met. 572 (1846).

3. In order to amount to a nuisance, it is not necessary that there should be a corruption of the atmosphere such as to be dangerous to health; it is sufficient that the effluvia are offensive to the senses and render habitations uncomfortable. SHAW, C. J. *Ib.*

4. It is not only the right but the duty of the city government of Boston, so far as they may be able, to remove any nuisance which may endanger the health of the citizens. *Baker* v. *Boston*, 12 Pick. 184 (1831).

5. And they have necessarily the power of deciding in what manner this shall be done, and their decision is conclusive, unless they transcend the powers conferred on them by the city charter. *Ib.*

6. Police regulations to direct the use of

private property so as to prevent its being pernicious to the citizens at large, are not void, although they may in some measure interfere with private rights without providing for compensation. *Ib.*

7. The property of a private individual may be appropriated to public use in connection with measures of municipal regulation; but in such case, compensation must be provided for, or the appropriation will be unconstitutional and void. *Ib.*

8. Carrying on an offensive trade for twenty years in a place remote from buildings and public roads does not entitle the owner to continue it in the same place after houses have been built and roads laid out in the neighborhood, to the occupants of and travellers upon which it is a nuisance. *Commonwealth* v. *Upton*, 6 Gray, 473 (1856).

9. Since the statute of 1849, c. 211, § 7, (Gen. Sts. c. 26, § 50,) which provides that "all fines and forfeitures incurred under the general laws, or the special laws applicable to any town or city, or the ordinances, by-laws and regulations of any town or city, relating to health, shall enure to the use of such town or city, and may be recovered by complaint, in the name of the treasurer," such fines and forfeitures are recoverable only by complaint in the name of the treasurer of the city or town, and in no other manner. *Commonwealth* v. *Fuhey*, 5 Cush. 408 (1850). (Under Gen. Sts. c. 19, § 15, either the city treasurer or the chief of po-

lice may prosecute for such fines and forfeitures.)

10. The ordinances and by-laws of the city of Boston concerning burying-grounds and the burying of the dead, are regulations relating to health within St. 1849, c. 211, § 7 (Gen. Sts. c. 26, § 50). *Ib.*

11. The St. of 1832, c. 150, entitled "an act in addition to an act authorizing the town of Charlestown to establish a board of health," authorizing the selectmen of Charlestown to appoint and locate the places where the dead may be buried in that town, to establish the police of the burying-grounds, to make regulations for funerals and the interment of the dead, to appoint all necessary officers to carry the same into effect, and to prescribe penalties for the violation of such regulations. The fourth section of a by-law made by the selectmen provided that no person should without leave in writing signed by a majority of the selectmen, bring into the town any dead body, or convey through any of the streets any dead body so brought into the town; or bury any dead body so brought into the town on any part of his own premises or elsewhere within the town. It was held, that the first part of this section of the by-law being unauthorized by the statute and void, (which was conceded,) the whole of the section was consequently void. *Austin* v. *Murray*, 16 Pick. 121 (1834).

12. It was held, also, that the latter part of the section was not a regulation but a

prohibition, and therefore void, and if it were not a prohibition, yet that except when applied to a populous part of the town it was unreasonable and on that account void. *Ib.*

13. The third section of the by-law ordains that no person shall exercise the office of funeral undertaker within the limits of the town, unless he shall have been first appointed and licensed by the selectmen. It was held, that this section did not apply to a person who, without a license buried dead bodies brought into the town contrary to the fourth section; or if it was intended more effectually to enforce the prohibition in the fourth section, and was to be taken in connection with that section, then it was void. *Ib.*

14. A tax payer in a town cannot maintain an action against the town for his proportion of the expenses of the burial of persons not paupers, paid by the town out of the money raised by town taxes. *Withington* v. *Harvard*, 8 Cush. 66 (1851).

15. A by-law of the city of Boston, prohibiting any person not duly licensed therefor by the mayor and aldermen, from removing house dirt and offal from the city, was held not to be in restraint of trade, but to be a valid by-law, and binding upon a stranger coming into the city. *Vandine, petitioner*, 6 Pick. 187 (1828).

16. It was criminal to dig up and remove a dead body, at common law. *Commonwealth* v. *Cooley*, 10 Pick. 36 (1830).

17. The removal of a dead body is not an offence within the meaning of St. of 1830, c. 57, (Gen. Sts. c. 165, § 37,) unless done with the intent to use or dispose of the body for the purpose of dissection, and in an indictment under that statute such an intent must be averred. *Commonwealth* v. *Slack*, 19 Pick. 304 (1837).

18. Where a town incurs expenses, under the provisions of St. 1837, c. 244, § 1, (Gen. Sts. c. 26, § 16,) on account of paupers having a legal settlement in another town, the former is bound to give reasonable notice to the latter, before commencing an action for such expenses, and the selectmen of the respective towns are proper officers to give and receive such notice. *Springfield* v. *Worcester*, 2 Cush. 52 (1848).

19. On the fifth of May, 1846, a poor person, having a legal settlement in W., fell ill of the smallpox in S., and was there relieved, in pursuance of the provision of St. 1837, c. 244, § 1, (Gen. Sts. c. 26, § 16,) and the selectmen of S., on the 25th of the same month, gave notice of the pauper's sickness and of the expenses incurred on his account, to the selectmen of W.; it was held, that such notice was reasonable and sufficient. *Ib.*

20. If the selectmen of a town, acting as a board of health, have brought a bill in equity to restrain the exercise of an offensive trade or employment which they have prohibited, under Gen. Sts. c. 26, § 52, this court have power to allow an amendment

thereof, by substituting the inhabitants of the town as plaintiffs, after the term of office of the selectmen has ceased. *Winthrop* v. *Farrar*, 11 Allen (1865).

21. An order by the selectmen of a town, acting as a board of health, forbidding the exercise of an offensive trade or employment therein, need not be served by an officer. *Ib.*

22. If the selectmen of a town, acting as a board of health, after passing a general order, under Gen. Sts. c. 26, § 52, forbidding the exercise of an offensive trade or employment therein, without first giving notice to those who at the time were engaged in carrying on the same, and after giving notice of the passage of such order to a person so employed, subsequently, and before the expiration of the three days allowed by § 56 for an appeal therefrom, gave notice to such person of the presentation of a petition to them, praying for the passage of a similar order upon him, appointing a time and place for a hearing, with the intention of preventing him from availing himself of his right of appeal from the order which they have already passed, and he is thereby so prevented, and thereby loses his right of appeal, this court will not enforce the order of the board of health by a process in equity. And if the selectmen have done this without an intention to mislead him, or to deprive him of his right of appeal, but he and his counsel have been actu-

ally mistaken in regard to his right of appeal from the order, and he has lost his appeal by reason of this mistake, and the consequences to him will be serious, this court in its discretion may and will refuse to enforce the order. *Ib.*

CLEANSE AND DISINFECT.

ADVICE IN REGARD TO THE USE OF DISINFECTANTS.

In view of the great importance of thorough disinfection, as a sanitary measure, at this season of the year, of every source of impurity within and around the dwellings of citizens, and to meet a frequent inquiry in regard to the use of articles for this purpose, the following plain and brief statements have been prepared by direction of the Metropolitan Board of Health by the Registrar, Dr. E. Harris, and are published for the benefit of the public.

The very hot and damp weather causes every kind of filth, garbage and refuse to putrify and give out poisonous and sickening gases. Privies, water-closets, garbage and filthy gutters are the worst of these dangerous evils about dwelling-houses. The mould, the slime, and the offensive smells found in damp places, cellars, closets, and especially in gutters and garbage-tubs, are every hour putrefying, and they poison the air. These and other preventable evils are causing so much needless sickness and mortality, that it is now the duty of every person to do what he can to promote cleanliness, and to secure a suitable use of disinfectants to remove and and prevent the consequences of putrifaction in places and things that are unclean. Every family, and every owner or lessee of tenement-houses or other dwellings, is earnestly advised to enforce and encourage thorough cleanliness, and to use disinfectants so freely as to protect their premises against every kind

of putrescence and all foul gases. Wherever you find any foulness or nuisance which you cannot yourself immediately remove or prevent, you should give information to the Board of Health.

In addition to the Official Memorandum, which gives minute directions and advice on Disinfection, the following Card of Brief Rules is given for the benefit of all who need simply to know what to do. The larger Memorandum is furnished free to all who apply; but this brief statement will just now be of special use to families:—

BRIEF RULES FOR USING DISINFECTANTS.

To Disinfect water-closets, privies, waste-pipes, and all kinds of drains and foul places in houses, stables and yards, and especially in any drain or sewer that is liable to become offensive, *use a strong solution of Copperas (Sulphate of Iron) and Acid.* You will make this solution by mixing eight pounds of dry Copperas and half a pint of fluid Carbolic Acid in five gallons of water, and stirring this mixture briskly.

To keep privies and water-closets from becoming infected or offensive, pour a pint of this solution into every water-closet, pan, or privy-seat morning and evening. Garbage and garbage-tubs should be daily disinfected with this fluid.

To disinfect masses of filth in privies, sewers or drains, gradually pour in the solution, hour by hour, until every part of the mass or foul surface has been thoroughly disinfected. To every cubic foot of filth give a pint or more of this strong solution.

To every privy and water-closet allow at the rate of one pint of this solution, to be poured daily, at evening, for every four persons that use the same.

This practice to be kept up while the hot weather lasts.

To disinfect sewers, stables, gutters, foul ditches, filthy ground, slimy surfaces of drying ponds, &c., or other places where there are great surfaces or masses of putrid matter. — Use the "Heavy Oil of Coal Tar," or some one of the strongest Disinfecting Powders that are made from Coal-Tar. Heavy Oil or Coal Tar, used with Copperas, or used alone, is the most effectual and the cheapest Disinfectant for this class of nuisances. The inside walls of foul stables, vaults, cellars, open gutters, and all such places, can be quickly and permanently Disinfected by occasionally laying upon these surfaces a coating of the "Heavy Oil," or of the crude Coal Tar.

Sewers and all foul drains can be kept perfectly disinfected by pouring into them, at as many places as possible, a small quantity of the "Heavy Oil," or a quantity of the strongest solution of Sulphate or Sesqui-chloride of Iron mixed with a twentieth part as much crude Carbolic Acid, and well stirred together.

Wherever it is proper to use a powder that does not dissolve, as upon filthy heaps, and in larger drains or cesspools, stables, cellars and the like, "Carbolic or Coal Tar Powders" are effectual. And for use in a larger way, upon filthy masses, and drying, stagnant or foul pools, a powerful Disinfectant may be made by mixing one part (by measure) of "Heavy Oil," with five parts of Quicklime and ten parts of sawdust, to use by covering the foul places with this mixture. The following substances also have well-known uses, viz :—

(1.) Quicklime. — To absorb moisture and putrid fluids, use fresh Stone Lime finely broken; sprinkle

it on the place to be dried, and in damp rooms place a number of plates or pans, filled with the Lime Powder; whitewash with pure lime, and not with kalsomine.

(2.) CHARCOAL POWDER. — To absorb the putrid gases, the coal must be *dry and fresh*, and should be combined with *Lime;* this compound is the *Calx Powder*, as sold in the shops.

(3.) CHLORIDE OF LIME. — To give off *chlorine*, to destroy putrid effluvia and to stop putrefaction, use it as lime is used, and if in cellars or close rooms the *chlorine gas* is wanted, pour strong *vinegar* or diluted *Sulphuric acid* upon plates of Chloride of Lime occasionally, and add more of the Chloride.

(4.) CARBOLIC ACID. — This may be diluted at the rate from forty to one hundred parts of water to one of the fluid acid. Use this solution for the same purpose as copperas is used; also sprinkle upon any kind of garbage or decaying matter, and on foul surfaces of any kind. For sprinkling foul or unhealthy streets and alleys, mix one part of this crude Carbolic Acid with four hundred parts of water or Copperas water, and sprinkle the entire surface every four or five days during the summer and autumn.

HOW TO PROCURE THE DISINFECTANTS.

Copperas (*Sulphate of Iron*). Buy of any druggist. You can buy 100 pounds of wholesale dealers for three dollars or less.

Carbolic Acid. — The cheapest crystallized acid costs one dollar a pound. It dissolves in one hundred parts of water. A pound is sufficient to make twelve gallons of the Disinfecting Fluid, with Copperas. The uncrystallized or fluid Carbolic Acid costs from fifty cents to five dollars a gallon, ac-

cording to its degree of purity. These preparations of the Acid should be obtained from reliable dealers in chemicals.

"Heavy Oil," or the Coal-Tar can be obtained from Wholesale Druggists generally.

All the *crude* Disinfecting substances of the Coal-Tar, or carbolic class, are so offensive to the smell, that they should be used only moderately in dwelling houses; but the Copperas and Carbolic solution can be used in *sufficient* quantity without this objection, and it should be used by every family, and especially in all hotels and boarding-houses.

Let fresh air and sunlight purify every place they can reach. Open and dry all cellars and vaults, and keep the grounds and surfaces about dwellings as dry and clean as possible. Domestic and personal cleanliness should be everywhere observed; and let it be remembered, *there are no substitutes for pure air and water.*